

2017

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### Recommended Citation

Drake, Winbourne Magruder (2017) "The Mississippi Reconstruction Convention of 1865," *Journal of Mississippi History*. Vol. 79: No. 1, Article 4.

Available at: <https://aquila.usm.edu/jmh/vol79/iss1/4>

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# The Mississippi Reconstruction Convention of 1865

*by Winbourne Magruder Drake*

With the collapse of the Confederacy in the spring of 1865, Mississippi, in common with most of the other Confederate states, was faced with the task of reorganizing its state government and resuming its place in the Union.<sup>1</sup> It seemed unlikely that the federal authorities would recognize the legality or actions of the existing state government. Nevertheless, on May 6, 1865, when the last Confederate forces surrendered in east Mississippi, Governor Charles Clark issued a proclamation calling a special session of the legislature to meet in Jackson on May 18. The legislature, in a brief session, passed an act providing for a state convention to meet on July 3. The convention was called for the purpose of repealing the secession ordinance and making some necessary constitutional changes.<sup>2</sup> The United States military authorities did not recognize the organization of the state government or the actions of the legislature. Indeed, the departure of the legislators from Jackson by the first available means of

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This article was originally published in the October 1959 edition of *The Journal of Mississippi History*. Some of the language may be offensive because the article is a product of its time and place. The article is reprinted verbatim to reflect the scholarship as it was presented at the time.

<sup>1</sup> A shorter version of this paper was read at a meeting of the Mississippi Historical Society in Hattiesburg, Mississippi, on March 6, 1959.

<sup>2</sup> *The American Annual Cyclopaedia*, V (1865), 578. The legislature also passed a resolution deploring the assassination of President Lincoln and appointed three commissioners to confer with President Johnson to find out what course he planned to follow with regard to the state. Governor Clark's proclamation, his address to the legislature, and the acts and resolutions passed by that body, may be found in *Governors Records*, Series E, Vol. H, Mississippi Department of Archives and History. A copy of a printed proclamation issued by Governor Clark, calling the convention election and quoting the convention act, is in the Broadside File, Mississippi Department of Archives and History.

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transportation was apparently stimulated by a rumor that they would be arrested if they tried to exercise legislative functions. On May 22, General E. D. Osband, commander of the United States troops in Jackson, arrested Governor Clark and took custody of the state records.<sup>3</sup> Mississippi was now without a civil government of any kind.

Meanwhile a group of loyal or Unionist Mississippians had met in Memphis early in May and had called a convention to be held in Vicksburg on June 5 for the purpose of reorganizing the civil government of the state. This plan received little support, for only six or eight counties sent delegates to Vicksburg, and the convention did not organize.<sup>4</sup> Thus the efforts of both the old state government and of the loyal citizens to reorganize the government proved to be abortive.

On May 29, 1865, President Andrew Johnson issued two proclamations which formed the basis of his plan of reconstruction. One of these granted amnesty and pardon to those who had participated in the rebellion and who took a prescribed oath to support and defend the [United States] Constitution and to abide by all the laws made during the rebellion with regard to the emancipation of slaves. Although fourteen classes of ex-Confederates were excepted from the benefits of the proclamation, they were permitted to make special application to the president for pardon.<sup>5</sup> The other proclamation named a provisional governor for North Carolina and provided for restoration of federal authority in that state. The governor was directed to prescribe rules for assembling a convention to amend the state constitution and was authorized to exercise all powers necessary to enable the loyal people to restore the state to its constitutional relations with the federal government. The members of the convention and the electors must have taken the amnesty oath, and be qualified voters under the provisions of the state constitution which was in effect before secession. Either the convention or a subsequent legislature was to prescribe the qualifications for voters and office holders under the state constitution and laws.<sup>6</sup> On June 13, President Johnson issued a similar proclamation, with only the necessary changes in names and dates,

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<sup>3</sup> J. L. Power, "The Black and Tan Convention," *Mississippi Historical Society Publications*, III (1900), 74; James Wilford Garner, *Reconstruction in Mississippi* (New York, 1901), 59-61.

<sup>4</sup> *Natchez Courier*, May 18, June 3, 6, 10, 1865.

<sup>5</sup> James D. Richardson (comp.), *Messages and Papers of the Presidents*, 10 vols. (Washington, 1896-1899), VI, 310-12.

<sup>6</sup> *Ibid.*, 312-14.

appointing William L. Sharkey as provisional governor of Mississippi.<sup>7</sup>

The announcement and inauguration of Johnson's reconstruction plan did much to relieve the feeling of "fearful expectancy" and uncertainty as to their status which the people of Mississippi had felt since the suspension of civil government.<sup>8</sup> The appointment of Sharkey, who was able, conservative, and highly respected, was generally acceptable to Mississippians and to northerners.<sup>9</sup>

In a proclamation of July 1, Sharkey called a special election for August 7 to elect delegates to a convention which was to meet on August 14. The electors and delegates were to have the qualifications prescribed in the president's proclamation. The number of delegates for each county was to be the same as their number of representatives in the lower house of the legislature before 1861.<sup>10</sup>

The press of the state joined Sharkey in urging the people to take the amnesty oath, pointing out that unless they did so they would have no political or legal rights, that they would still be considered rebels, with their property subject to confiscation, and that they would be unable legally to engage in business of any sort.<sup>11</sup> A majority of the people took the oath as soon as possible. Indeed, there were many complaints of the lack of facilities for taking the oath, and of the inconvenience of having

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<sup>7</sup> *Ibid.*, 314-16. Similar proclamations were issued for the five remaining southern states that had not organized provisional governments under Lincoln's reconstruction plan. Sharkey was in Washington, D.C., at the time of his appointment. He and William Yerger, two of the commissioners appointed by the May session of the legislature, had gone to Washington in an unofficial capacity at Governor Clark's request. They had urged the president to permit the convention called by the legislature to meet. When told that this would not be done, they agreed that the plan announced by the president for North Carolina would be more acceptable than any other to Mississippians. For an account of the interview Sharkey and Yerger had with Johnson, see speech by Yerger in *Journal of the Proceedings and Debates in the Constitutional Convention of the State of Mississippi, August, 1865* (Jackson, 1865), 145-46. (This source is cited hereinafter as *Convention Journal*.)

<sup>8</sup> "Report of Carl Schurz on the States of South Carolina, Georgia, Alabama, Mississippi and Louisiana," *Senate Executive Documents*, No. 2, 39 Cong., 1 Sess., 4 (cited hereinafter as Schurz, *Report*); Garner, *Reconstruction in Mississippi*, 61.

<sup>9</sup> Charles S. Sydnor, "William Lewis Sharkey," in *Dictionary of American Biography*, 22 vols. and index (New York, 1928-1958), XVII, 21; Garner, *Reconstruction in Mississippi*, 75.

<sup>10</sup> *Convention Journal*, 3-8. The proclamation also provided for the reestablishment of local and county government.

<sup>11</sup> *Meridian Daily Clarion*, July 19, 1865; *Natchez Courier*, June 15, 20, July 22, 1865.

to travel considerable distances to take it.<sup>12</sup> Of course some die-hards refused to take the oath, some were indifferent or negligent, and others were unwilling to subscribe to it for fear that they would thus be signing away their right to compensation for their slave property. Nevertheless, by the time the convention met, there were comparatively few men in the state who had not taken the oath.<sup>13</sup> Almost a thousand people in the classes excluded from the benefits of the amnesty applied to the president and were granted pardon.<sup>14</sup>

The methods of nominating candidates for the seats in the convention varied throughout the state, as did the intensity of interest in the campaign. In many counties conventions or meetings were held to nominate candidates. In others, prominent men were prevailed upon by their friends to announce their candidacy.<sup>15</sup> Some men were evidently reluctant to stand for election, for, as one observer put it, the office of delegate was “considered as a position of great responsibility promising little reputation and no profit,” while it “might prove the political death knell to the aspiring politician.”<sup>16</sup>

While the campaign for convention delegates aroused little interest in many parts of the state,<sup>17</sup> there were, particularly in Hinds and the surrounding counties, clearly defined issues and parties. William Yerger and Amos R. Johnston of Hinds County were the leaders and ablest spokesmen of the conservative party. The conservatives thought the convention should realistically recognize the fact that the South

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<sup>12</sup> Governor Sharkey received numerous letters from the military authorities and from private citizens on this subject. The oath was at first administered only by the military authorities, but on July 7 Sharkey authorized probate judges who had themselves taken the oath to administer it. For some letters to Sharkey on the subject, see Governors Records, Series E, No. 70, Mississippi Department of Archives and History. The *Natchez Courier*, June 20, 1865, quoting a communication from Jackson reported that the people were “pressing in by hundreds to take the oath.”

<sup>13</sup> *Jackson Mississippian*, August 11, 1865; Jason Niles Diary, entry for July 15, 1865, Southern Historical Collection, University of North Carolina; B. F. Moore to William L. Sharkey, July 28, 1865, Governors Records, Series E, No. 70, Mississippi Department of Archives and History.

<sup>14</sup> See House *Executive Documents* No. 31, 39 Cong., 2 Sess., 19-20, and *ibid.*, No. 32, 40 Congr., 1 Sess., 63-84 for the names of these people.

<sup>15</sup> *Meridian Daily Clarion*, July 19, 30, 1865; *Jackson Mississippian*, July 22, 29, August 1, 1865; Jason Niles Diary, entry for July 8, 1865.

<sup>16</sup> *Meridian Daily Clarion*, August 20, 1865, quoting *Mobile Advertiser*. See also *ibid.*, July 17, 1865, and *Natchez Courier*, July 22, 27, 1865.

<sup>17</sup> Carl Schurz, who reached Mississippi after the convention adjourned, said he heard that “in most cases the members were elected not upon strictly defined party issues but upon their individual merits as to character, intelligence, and standing in society. Only in a few places the contest between candidates was somewhat animated.” Schurz, *Report*, 9-10.

had been defeated, that slavery had been abolished, and that there was no hope either for the revival of slavery or for compensation for the slaves. According to their view, the best way to secure the readmission of Mississippi to the Union at the earliest date and on the best terms was for the convention to declare slavery totally and finally abolished.<sup>18</sup> The other group, occasionally referred to as the constitutional party, but more frequently (at least by their opponents) called the Potter party, or Potterites, was led by George L. Potter, a prominent Hinds County attorney. Potter declared that if elected he would “vote against any proposition” in the convention “for the unconditional abolition of slavery.” He contended that Mississippi had never been out of the Union, and that the state was entitled to her rights under the constitution, including the right to compensation for slaves.<sup>19</sup> The Potterites thought some form of abolition might be adopted by the convention which would leave open the possibility that at least widows, orphans, minors, and loyal persons might be compensated for their slaves.<sup>20</sup>

A majority of the state’s newspapers, including the Jackson *Mississippian* and the Meridian *Clarion*, two of the leading pre-war Democratic organs, supported the conservatives. Apparently only the Brandon *Republican* and the Jackson *News* supported the Potter party.<sup>21</sup> But before the end of the campaign the *News* had changed its stand somewhat, concluding that the demand for amending the state constitution to provide for abolishing slavery should be complied with “with as good grace as possible.”<sup>22</sup>

There were other issues in the campaign besides that of the method of recognizing the abolition of slavery. It is clear, however, that Negro suffrage was not an issue. None of the state’s newspapers, not even the two which were edited by former Union soldiers, favored Negro suffrage.<sup>23</sup>

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<sup>18</sup> For speeches and circulars of Johnston, Yerger, and the other conservative candidates from Hinds and other counties, see Meridian *Daily Clarion*, July 30, 1865, and Jackson *Mississippian*, July 18, 20, 22, 30, August 1, 1865.

<sup>19</sup> Jackson *Mississippian*, July 20, 1865. An editorial in *idem* entitled “The Rip Van Winkle Party” said that Potter must have slept through four years of war and then waked up “crying most lustily for slavery.”

<sup>20</sup> Garner, *Reconstruction in Mississippi*, 82.

<sup>21</sup> Meridian *Daily Clarion*, August 8, 1865; Jackson *Mississippian*, August 2, 3, 5, 6, 1865. It should be noted that only seventeen newspapers in the state had resumed publication by August 1865. Meridian *Daily Clarion*, August 22, 1865.

<sup>22</sup> New Orleans *Daily Picayune*, August 10, 1865, commenting on and quoting from the Jackson *News*, July 28, 1865.

<sup>23</sup> New York *World*, August 26, 1865.

Indeed, one of the arguments used by the conservatives was that, by complying with the terms of the President's proclamation, the state could more quickly secure representation in Congress, "so that we may help defeat the party that is endeavoring to bestow upon the negro the right of suffrage, and social equality with the white men."<sup>24</sup>

In some counties, particularly in the northeast and Piney Woods where disloyalty to the Confederacy and unionism had been strongest, the convention candidates were classified as unionists and secessionists.<sup>25</sup> In general, however, the pre-war political affiliations and stands on secession or unionism had little to do with the principal issue of the campaign.<sup>26</sup>

The vote was light in the election for convention delegates on August 7, as was the case in the convention elections held in the other southern states.<sup>27</sup> The Radical Republicans later argued that the vote was "inadequate to give expression to the popular will of the people."<sup>28</sup> An analysis of the available figures shows that the vote was particularly small in several counties where the candidates were either unopposed or had negligible opposition. But in many counties where the race was closely contested the size of the vote compared favorably with that in the secession convention election and in the gubernatorial election of October 1865.<sup>29</sup> Contemporary Mississippi newspapers thought the size of the vote was respectable under the circumstances, pointing out that the people had had a short time to qualify.<sup>30</sup>

Mississippi's constitutional convention was the first to assemble under President Johnson's reconstruction plan, and its actions were the object of widespread attention in both the North and the South.<sup>31</sup> The northern

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<sup>24</sup> Jackson *Mississippian*, August 3, 1865.

<sup>25</sup> Alex J. Smith to W. L. Sharkey, July 28, 1865; W. M. Pollan to W. L. Sharkey, July 18, 1865, Governors Records, Series E, No. 70, Mississippi Department of Archives and History; W. C. Turner, "Circular to the People of Clarke County," *Meridian Daily Clarion*, July 30, 1865. See also the comment in Schurz, *Report*, 10, to the effect that only one real Unionist, Thomas G. Crawford of Jones County, was elected to the convention.

<sup>26</sup> For example, the Jackson *Mississippian*, which had been strongly secessionist, was the leading conservative newspaper. George L. Potter, like his chief opponents Yerger and Johnston, had been a Union Whig before the war.

<sup>27</sup> Schurz, *Report*, 6.

<sup>28</sup> *Meridian Daily Clarion*, October 17, 1865.

<sup>29</sup> Returns for forty-three of the state's sixty counties are in Legislative Records, Series I, No. 118, Mississippi Department of Archives and History. For the secession convention returns, see Percy Lee Rainwater, *Mississippi, Storm Center of Secession, 1856-1861* (Baton Rouge, 1938), 198-200, and for the October 1865 returns, see *Mississippi Senate Journal* (October 1865), 10-11.

<sup>30</sup> Jackson *Mississippian*, August 11, 1865.

<sup>31</sup> *New York Times*, August 18, 1865.

conservatives were watching to see if the South was actually adapting itself to the changed state of affairs, and the Radicals were looking for some indication of the continued existence of a rebellious spirit.<sup>32</sup> Reporters from several northern papers were in Jackson to cover the convention, and the northern press did not hesitate to offer advice to the convention as to the spirit in which its proceedings should be conducted and the action it should take.<sup>33</sup> The actions and speeches of some of the delegates show that they were influenced by public opinion,<sup>34</sup> and apparently the awareness of being in the limelight had a moderating effect on some of the less conservative members. While there was no intimation of military coercion, it seems possible that the presence of federal troops in Jackson may have at least indirectly influenced the actions of the convention. Most of the delegates were motivated by the desire to bring the state back into the Union, to regain control of their own affairs, and to restore civil government, law, and order as rapidly as possible.

The delegates who assembled in Jackson on August 14, 1865, were generally characterized by contemporary observers as conservative and able,<sup>35</sup> and a study of their actions and debates seems to bear out that judgment. Thirty-five of the ninety-nine delegates were lawyers, and thirty-eight were farmers. Most of the remainder were doctors, ministers, or merchants. Thirty had served in the state legislature, and several had served on the bench, including William Yerger, who had been on the state's high court of errors and appeals. James F. Trotter of Marshall County had been a member of the 1832 convention and had served briefly in the United States Senate. James T. Harrison of Lowndes County and John W. C. Watson of Marshall had been Confederate congressmen. Seven of the delegates had been members of the secession convention of 1861, and six of these had voted against secession. Seven members had been Unionist delegates in the convention of 1851. While all but eight were native-born southerners, only eleven had been born in Mississippi. This is not surprising in view of the fact that more than half of the delegates were born before Mississippi achieved statehood. In past political

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<sup>32</sup> New York *World*, August 25, 1865.

<sup>33</sup> New Orleans *Daily Picayune*, August 10, 1865; New York *Times*, August 18, 1865.

<sup>34</sup> The convention voted to have its debates reported in full and printed to "vindicate the state from the aspersions that are constantly being cast upon her," and to show the northern conservatives and the government that the convention was acting in good faith, and not merely going through the forms of a return to allegiance. *Convention Journal*, 26-27.

<sup>35</sup> New York *World*, August 26, 1865; Meridian *Daily Clarion*, August 20, 1865, quoting Mobile *Advertiser*; Jackson *Mississippian*, August 13, 1865.



affiliations, seventy delegates listed themselves as Whigs, while eighteen were Democrats. The remainder used a variety of designations—mostly “conservative”—to describe their politics. While the old party affiliations were an indication of the conservative nature of the group, they had little or no bearing on the division on policies or issues in the convention itself.<sup>36</sup>

The 1865 convention contained fewer men who had had experience in public affairs than did any of the ante-bellum conventions in Mississippi, with the possible exception of the convention of 1832. For example, a comparatively small percentage of the delegates had served in the legislature, and there were no former governors in the convention. A majority of the delegates had been Whigs, and the Whigs had been the minority party in Mississippi for many years. Consequently, although many of the delegates were men of ability, relatively few of them had held high political office in the state. Very few of the prominent Democrats who had led the secession movement sought seats in the 1865 convention. If they wanted to serve, they probably realized that they had little chance of being elected. Also, many of the old Democratic leaders were excepted from the terms of the President’s amnesty proclamation, so they were technically ineligible to seats in the convention unless they had been pardoned.<sup>37</sup>

Provisional Governor Sharkey presided at the opening of the convention on August 14. The delegates presented their amnesty oaths for the governor’s inspection, and later completed their qualifications by presenting their credentials and by taking the oath to support the constitution of the United States.<sup>38</sup> J. Shall Yerger, a Unionist who had

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<sup>36</sup> The above information on the delegates is drawn largely from “Tabular View of the Convention,” compiled by the secretary, J. L. Power, *Convention Journal* [278-83], and to some extent from Dunbar Rowland (ed.), *Encyclopedia of Mississippi History, Comprising Sketches of Counties, Towns, Events, Institutions and Persons*, 2 vols. (Madison, WI, 1907), I and II, *passim*; Dunbar Rowland (ed.), *The Official and Statistical Register of the State of Mississippi*, 1908 (Nashville, 1908), 46-124; and the statements of the delegates themselves in their speeches during the convention, as reported in *Convention Journal*.

<sup>37</sup> The same thing might be said of several Whigs who actually served in the convention. An examination of the lists of pardons in the source cited in note 14, above, shows that thirteen delegates, all but two of them Whigs, were not pardoned until after the convention had adjourned. The *Meridian Daily Clarion*, October 6, 1865, noted that “quite a number of gentlemen participated in the deliberations who were manifestly not entitled to seats upon the floor. They were mostly, however, considered ‘safe men’ and consequently no official objections were made.”

<sup>38</sup> *Convention Journal*, 8-9. There is no indication in the *Journal* that the qualifications of any of the members were questioned. Only eighty delegates were present for the opening session, but nineteen more arrived later. Greene County was not represented, because no election took place in that county. *Ibid.*, [283].

been a member of the 1861 convention, was elected president of the convention on the first ballot.

On the second day the president appointed the two fifteen-man committees which were to do the most important work of the convention. The Committee on the State Constitution, with James T. Harrison as chairman, was to report the alterations and amendments to the state constitution necessary to restore the state to its constitutional relations with the federal government. The Committee on Ordinances and Laws, headed by Amos Johnston, was to report what action should be taken on the ordinance of secession and the ratification of state laws passed since January 9, 1861, the date Mississippi seceded from the Union.

On August 15 President Johnson sent the following telegram to Governor Sharkey:

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution, abolishing slavery and denying to all future legislatures the power to legislate that there is property in man; also that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary and set an example the other states will follow. This you can do with perfect safety, and you would thus place the Southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the Southern States from renewing their relations to the Union by not accepting their senators and representatives.<sup>39</sup>

This dispatch was especially important, for it indicated what the president expected the convention to do, and Sharkey had received no general instructions from Johnson on the proposed action of the convention

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<sup>39</sup> Senate *Executive Documents*, No. 26, 39 Cong., 1 Sess., 229. The *Convention Journal* contains no record of this dispatch, but there is little reason to doubt that Sharkey presented it to the convention. The Journal does not contain a full report of the proceeding of the first few days. See Garner, *Reconstruction in Mississippi*, 84.

except those contained in the proclamation appointing him governor.<sup>40</sup>

The two committees made their reports on August 17, and the next day the convention began consideration of the report of the Committee on the State Constitution. The first section of the report provided for amending the constitution so as to strike out all the portions concerning slaves or slavery. The convention adopted this part of the committee's report without debate or a recorded vote.<sup>41</sup>

The second section of the report of the Committee on the State Constitution was the subject of the longest debate during the convention, a debate which lasted for almost four days.<sup>42</sup> This section, as originally reported, provided that the following be inserted as the eighth article of the state constitution:

That neither slavery nor involuntary servitude, otherwise than in punishment of crimes, whereof the party shall have been duly convicted, shall hereafter exist in this State; and the Legislature at its next session, and thereafter as the public welfare may require, shall provide by law for the protection and property of the freedmen of the State, and guard them and the state against any evils that may arise from their sudden emancipation.<sup>43</sup>

Hugh Barr of Lafayette County offered a substitute, which added the following preamble to the original section:

Slavery having been abolished in this State by the action of the Government of the United States, it is therefore hereby declared and ordained . . . .<sup>44</sup>

The debate that followed the introduction of Barr's substitute centered around a discussion of what had brought about the abolition of slavery.

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<sup>40</sup> Sharkey's testimony before the Committee on Reconstruction, 1868, House *Executive Documents*, No. 53, 40 Cong., 3 Sess., 39.

<sup>41</sup> *Convention Journal*, 43. For the constitution as amended by the convention, as well as all amendments, ordinances, and resolutions the convention adopted, see Senate *Executive Documents*, No. 26, 39 Cong., 1 Sess., 61-77. See also Francis Newton Thorpe (comp.), *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, 7 vols. (Washington, 1909), IV, 2065-68. Thorpe lists the amendments in a very confusing way, including the abolition amendment in three different places among those adopted by the convention. Thorpe includes only the ordinances of an essentially organic character which the convention adopted.

<sup>42</sup> *Convention Journal*, 44-165, 226-31.

<sup>43</sup> *Ibid.*, 29-30.

<sup>44</sup> *Ibid.*, 44.

William Yerger contended that its abolition resulted from the war, and was “produced by the joint action of the Government, and the people of the Southern States,” rather than “by the sole act of the United States.”<sup>45</sup> He concluded that the preamble proposed by Barr would create useless discussion in both the North and the South. Barr and his supporters held that it would be incorrect to allow the people of the state and future generations to think that the convention had voluntarily abolished slavery, when actually its abolition had been forced on them by a conqueror. George L. Potter said there was no doubt that, if slavery were dead, it had been killed by the action of the federal authorities. But to him the important point was whether the action was legal, and whether it would be sustained by the courts. The convention voted to table Barr’s substitute as well as three different modifications of it.<sup>46</sup>

Potter, who, of the more vocal delegates, seemed most reluctant to admit that slavery was actually or legally dead, then offered a substitute for section two of the committee’s report, which he supported by an able though lengthy speech.<sup>47</sup> Potter probably had no notion that slavery would be revived, but his purpose was to have the constitutionality of the proclamations and acts of emancipation decided by the courts. If abolition were declared unconstitutional, then widows, orphans, and non-participants in the rebellion might be able to claim compensation. If the convention declared slavery abolished, all right to such claims would be shut off. Also, if emancipation were declared unconstitutional by the federal courts, it would be the responsibility of the federal rather than the state government to take care of the free Negroes. Potter also argued that the state should not submit to any conditions imposed upon it for admission of its representatives to Congress, for he took the position that the southern states had never been out of the Union. He argued that the president had only advised, not required, that the convention recognize the abolition of slavery, and that Johnson would not insist upon the passage of an abolition amendment. This part of Potter’s argument was weak, as his opponents pointed out. His weakest point, however, was his failure to mention the fact that the Thirteenth Amendment would settle the question of the constitutionality of emancipation. On the other hand, Potter’s prediction that the recognition of the abolition of slavery by the convention would not satisfy the Radical Republicans, but that they

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<sup>45</sup> Ibid., 45.

<sup>46</sup> Ibid., 53. The vote on tabling Barr’s substitute was fifty-four to forty-one.

<sup>47</sup> Ibid., 55-70.

would insist on other conditions of readmission, was prophetic. Potter's proposed substitute received only moderate support and was tabled by a vote of sixty-three to twenty-eight.

Early the next day, August 19, Robert S. Hudson of Yazoo County introduced still another substitute for the second section of the report of the Committee on the State Constitution. This was similar to the section as originally reported, but with the addition of a proviso that the clause, and all legislation based upon it, should be inoperative until the state's representatives should be admitted to Congress and until civil authority should be restored in the state. He also included a provision that nothing in the amendment should be construed to prejudice any right to compensation for the loss of any slave. In defending his plan Hudson stressed the fact that Mississippi was still a sovereign state, to whom terms of admission could not be dictated. Potter and three other delegates made speeches in support of Hudson's proviso.

The three chief opponents of the Hudson proviso, and advocates of the committee's original amendment, were John W. C. Watson, Amos Johnston, and William Yerger. Johnston reminded his listeners of the condition of the state, noting that she stood "vanquished, without power, without will, without volition — absolutely without any choice as to the course which she may pursue."<sup>48</sup> He argued that the conditional clause of Hudson's proviso would place a weapon in the hands of the Radicals. Everyone in the convention, he said, admitted that slavery was dead, and, since it was dead, "let us indulge in no useless regrets over its demise, but bury the carcass that it may no longer offend our nostrils."<sup>49</sup> It was foolish to think that the government would compensate slaveowners after having spent millions of dollars on the war. If in future years the government should decide to compensate innocent persons, adoption of the free state constitution would not impair their rights. "Let the institution of slavery go; and the question of compensation — everything — until we relieve ourselves from this present pressure . . .," Johnston concluded.<sup>50</sup> Watson pointed out the inconsistencies in Potter's argument that no conditions had been placed on the convention. If the state were out of the Union, the government could impose conditions of readmission, while if secession were unconstitutional, the people of the state had forfeited their rights as citizens. Watson thought that moderate action on the part

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<sup>48</sup> *Ibid.*, 86-87.

<sup>49</sup> *Ibid.*, 91.

<sup>50</sup> *Ibid.*, 95.

of the convention would strengthen the northern conservatives, and he predicted they would join southern congressmen against the Radicals.

The final speech on abolition, by William Yerger, was the best speech of the convention. By way of background, Yerger told of his mission to Washington in June 1865. President Johnson had made it clear to him that the convention must pass an abolition amendment before the administration would support the restoration of the state government and resumption of normal relations with the federal government. Without that support, the president had pointed out, Radical fanaticism, which was “clamoring, not for the abolition of slavery, but for universal suffrage and social equality of the negro,” would overwhelm them.<sup>51</sup> Turning to conditions in Mississippi, Yerger called on the delegates to face the fact that the state was under absolute military control and that slavery, in fact and under the law, had been abolished. He argued that civil and political liberty, the right of trial by jury, the writ of *habeas corpus*, and the political supremacy of the white man over the Negro were more important than slavery, and none of these things should be sacrificed by trying to hold on to slavery. But the delegates who were supporting Hudson’s proviso, he said, were ready to jeopardize these rights, not for slavery, which even they admitted was dead, but in the “pursuit of a chimerical right under the constitution of the United States.”<sup>52</sup> Yerger then briefly summarized the arguments against Hudson’s proviso. The government was not begging them to return to the Union. If the proviso were adopted, “a hue and cry will be immediately raised by the whole northern press that the Southern States are attempting to dictate the terms of their restoration to Congress.”<sup>53</sup>

After Yerger closed his speech with a stirring appeal to the members to act in the best interests of the state, Hudson’s substitute motion was tabled without a recorded vote.<sup>54</sup> James T. Harrison then offered an amendment to section two of the committee’s report, so that it would read: “The institution of slavery having been abolished in the state of Mississippi, neither slavery nor involuntarily servitude . . .”<sup>55</sup> This represented a definite compromise between the original committee report and some of the other suggestions, for it left unanswered the question of

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<sup>51</sup> *Ibid.*, 147.

<sup>52</sup> *Ibid.*, 157.

<sup>53</sup> *Ibid.*, 161.

<sup>54</sup> *Ibid.*, 164.

<sup>55</sup> *Idem.*

who or what had killed slavery. The vote in favor of adopting the second section of the committee report, as reworded by Harrison, was eighty-seven to eleven.<sup>56</sup> Thus slavery was abolished in the state, although to say, “Thus perished the institution of slavery in Mississippi, killed in the house of its friends,”<sup>57</sup> is not quite correct, for it had already been killed. It might be better to say that the convention, after four days of argument on the method of burying the institution, recognized its demise, and, to quote one of the delegates, buried it “face downward, with the inscription on its back, ‘no resurrection.’”<sup>58</sup>

After settling the abolition question, the convention adopted the third section of the report of the Committee on the State Constitution. This part of the report provided for amending the twelfth section of the declaration of rights of the constitution so as to authorize the legislature, in case of certain misdemeanors, to dispense with an inquest of a grand jury and to authorize prosecutions before justices of the peace or other inferior courts.<sup>59</sup> A contemporary observer noted that this change was made because of the “apprehension of trouble from the sudden emancipation of so many negroes,” and was “demanded by a regard for the best interests of the State.”<sup>60</sup> The section was adopted without debate or a recorded vote, after a slight change in wording from the original committee report.<sup>61</sup>

On August 22, the convention began consideration of its second most important piece of business — revoking the secession ordinance — by taking up the report of the Committee on Ordinances and Laws. The majority of this committee had reported an ordinance whose first section

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<sup>56</sup> *Convention Journal*, 164-65, 174. Before the final vote, an unsuccessful effort was made to change the last part of the amendment, which directed the legislature to provide “for the protection and security of the person and property of the freedmen.” The proposed changes would have deleted the word “property” and inserted “the regulation of labor and wages.” By leaving the wording of this part of the amendment unchanged, the convention showed it intended the Negroes to have property rights. The October 1865 session of the legislature passed an act which limited the property rights of freedom. Sharkey, testifying before the Joint Committee on Reconstruction in March 1866, pointed out the stand the convention had taken on this matter, and criticized the legislative act as being unconstitutional. *Report of the Joint Committee on Reconstruction* (Washington, 1866), Part III, 133-34.

<sup>57</sup> Franklin L. Riley, *School History of Mississippi* (Richmond, 1900), 287. Garner, *Reconstruction in Mississippi*, 90, uses a similar phrase.

<sup>58</sup> Speech by Hudson, *Convention Journal*, 195.

<sup>59</sup> *Ibid.*, 30. The twelfth section of the declaration of rights stated that no person should, for any indictable offense, be proceeded against criminally by information. The amendment the convention adopted was in the form of a proviso to this section. Thorpe, *Federal and State Constitutions*, IV, 2050, 2066.

<sup>60</sup> *Meridian Daily Clarion*, August 27, 1865, quoting *Mobile Advertiser*.

<sup>61</sup> *Convention Journal*, 165-66.

declared the secession ordinance to be null and void. James F. Trotter submitted as a minority report an ordinance declaring the secession ordinance repealed and abrogated. Another minority report, signed by Richard Cooper of Rankin County and Edmund Goode of Lawrence, stated that, inasmuch as Mississippi had resumed her sovereignty in 1861, had failed to maintain her asserted sovereignty in the war, and was now willing to resume her station in the Union, the secession ordinance was declared null and of no binding force. These three wordings of the revocation of the secession ordinance, and other minor variations, formed the basis of the debate which followed their introduction.<sup>62</sup>

Trotter, defending his minority report, stated the case most clearly for those who believed the words “abrogated” or “repealed” should be used.<sup>63</sup> Using the words “null and void,” he contended, would imply that the secession convention had had no authority to pass the secession ordinance. This would reflect discredit on the patriotism and intelligence of the 1861 convention, and impute the crime of treason to all of its members and to all citizens of the state who had obeyed its authority. Trotter said that everyone regretted the step taken in 1861, and wanted to retrace it. The use of the word “repeal” should satisfy those who believed the action of the secession convention to be void *ab initio* as well as those who did not, for legislative bodies often repealed acts which were considered unconstitutional. Hugh Barr said the “null and void” terminology would deny not only the right of secession, but the right of revolution. He distinguished between “null and void” as a term used by courts in judicial review, and “repeal” as used by legislative bodies. [James T.] Harrison did not think declaring the secession ordinance null and void would actually remove it from the statute books.<sup>64</sup> None of the proponents of Trotter’s minority report said in so many words that they thought the right of secession still existed, but they saw no point in passing on the constitutionality of the secession ordinance by declaring it null and void from the beginning.

Amos Johnston, the committee chairman, ably defended the majority report. He said the wording of the report was intended to mean that the secession ordinance was null and void *ab initio*, and never had any binding force. These words would clearly indicate that Mississippians

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<sup>62</sup> The majority and minority reports are on pp. 36-38, and the debates on pp. 175-226 of *Convention Journal*.

<sup>63</sup> *Ibid.*, 175.

<sup>64</sup> *Ibid.*, 176.



were not holding onto the right of secession. Johnston, recognizing the right of revolution, said the use of the term “null and void” admitted Mississippians had been engaged in revolution but had failed. Although “repeal” was the correct usage for legislature bodies, the convention was more than a legislative body. Other members spoke strongly in favor of declaring unequivocally that the right of secession had never existed. Lock E. Houston, a Union Democrat from Monroe County, in an effort at compromise, urged that the “null and void” wording did not actually say the secession ordinance was null and void at the time it was passed.

At the close of the debate the convention voted by the narrow margin of forty-eight to forty-six to table Trotter’s motion. Other amendments or substitutes, including Goode’s minority report, were also tabled. The majority report, as originally offered, then passed by a vote of eighty-one to fourteen, with many delegates who had supported Trotter’s and other substitutes voting for the “null and void” wording on the final vote.<sup>65</sup>

Section two of the report of the Committee on Ordinances and Laws provided for repealing certain enumerated ordinances and amendments which the secession convention had passed in January and March, 1861. Some members pointed out the inconsistency of the committee in using the words “null and void” in connection with the secession ordinance, and “repeal” for other acts of the secession convention. Amos Johnston explained, however, that this had been done because declaring the other ordinances null and void would have had the effect of destroying the value of the treasury notes issued for the defense of the state under authority of two of the ordinances, while “repealing” them might not have this effect. On second thought, Johnston and others now felt that repealing the ordinances might also have the effect of repudiation, so he moved to have the two revenue ordinances deleted from the list of those repealed. William Yerger did not want the state to repudiate the action of the earlier convention, even though he disapproved of it. But on the other hand, he thought deleting the ordinances from the list of those repealed would in a sense be pledging the state to pay the present holders, many of whom were speculators, the face value of the notes. In its final form, on Yerger’s suggestion, this section of the committee report provided for the repeal of various ordinances adopted by the secession convention, except for the two to raise means for the defense

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<sup>65</sup> *Ibid.*, 220-21. The division of sentiment on the revocation of the secession ordinance did not follow the same lines as that on the abolition amendment, although Yerger and Johnston were leaders of the conservatives in both debates.

of the state, which were left for the action of the legislature.<sup>66</sup>

The convention completed the major part of its work with the action on the abolition amendment and the ordinances of the secession convention, but it adopted several additional ordinances and amendments of importance, and considered still others.<sup>67</sup> Probably the most important of the other ordinances which were passed was one reported by the Committee on Ordinances and Laws which legalized and supported the legislative and other official enactments of the state since the date of the secession ordinance.<sup>68</sup> Obviously some such action was necessary in view of secession having been declared null and void. The first section of this ordinance validated all laws enacted by the legislature since January 9, 1861, except those in conflict with the constitution of the United States or of the state, or those in aid of the rebellion.<sup>69</sup> Also excepted were laws in relation to crimes and misdemeanors, and a few other laws specifically mentioned. There was some debate over excluding acts passed in aid of the rebellion, for some members thought it would be difficult to determine whether certain acts, for example the act in regard to the issuance of "cotton money" were actually in aid of the rebellion.<sup>70</sup> Other sections of this ordinance validated judicial decrees, court orders, marriages, and the acts of public officials since the date of secession.<sup>71</sup>

The convention took steps to restore state and local government as rapidly as possible, passing an ordinance providing for an election for all local and state officers and congressmen in early October 1865. [Robert] Hudson introduced an amendment to the ordinance, providing that the higher judicial and county officers who had been elected in October 1864 be reinstated for their unexpired terms on taking the amnesty oath.

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<sup>66</sup> Ibid., 223-25. Yerger felt it should be left to the legislature to consider the actual amount paid by the holders in settling the obligations.

<sup>67</sup> The convention considered or adopted these acts at various times, chiefly during the last two days. They are not discussed in chronological order.

<sup>68</sup> The report of the committee is in *Convention Journal*, 36-38, and the debate in *ibid.*, 243-47. The ordinance as finally adopted is in *Senate Executive Documents*, No. 26, 39 Cong., 1 Sess., 73.

<sup>69</sup> The ordinance as originally reported by the committee used the word "revolution" rather than "rebellion," but the word was changed, evidently without opposition, in the substitute that was adopted. Apparently the delegates showed little hesitancy in referring to the late unpleasantness as a rebellion.

<sup>70</sup> One delegate pointed out that much of the cotton money was issued to be spent for the benefit of the indigent. The necessity for the issuance of the money arose from the rebellion, but was not necessarily in aid of it. A majority of the convention seemed to agree with Lock Houston that the question of which laws had been in aid of the rebellion, as well as which were in conflict with the constitution, was a matter for the courts to decide. *Convention Journal*, 236-37.

<sup>71</sup> *Ibid.*, 36.

Hudson's amendment was defeated after William Yerger pointed out that such an action would certainly subject the convention to severe criticism in the North.<sup>72</sup>

Two amendments and one ordinance made slight changes in the court and judicial system of the state. One of the amendments allowed the high court of errors and appeals to meet elsewhere than in the state capital on direction of the legislature.<sup>73</sup> Another amendment changed the word "orphans" to "minors" in the section of the constitution which defined the jurisdiction of probate courts.<sup>74</sup> An ordinance recognize and defined the status of special courts of equity which the provisional governor had established.<sup>75</sup>

The convention passed other ordinances which were essentially organic in nature, or which made temporary changes in the constitution. One of these gave the legislature power to settle all indebtedness of the state, or its citizens, to the United States government arising under past, present, or future revenue laws, including the power to pledge the faith and credit of the state for this purpose.<sup>76</sup> Another ordinance made the section of the constitution which prohibited a legislature from raising its own pay inoperative for the next session, though the convention took no action on a proposal to inquire into the expediency of increasing the salaries of all state officials.<sup>77</sup>

The convention passed two resolutions of importance, other than those dealing with such matters as the printing of proceedings and providing for the expenses of the convention. One of the resolutions provided for the appointment of commissioners to confer with the authorities in Washington about rebuilding the Mississippi River levees and obtaining the necessary funds and labor force.<sup>78</sup> Under the provisions of another resolution, a committee was appointed to prepare and report to the legislature such laws and changes in laws that they might think expedient in view of the constitutional amendments made by the convention.<sup>79</sup>

The convention confined its actions almost exclusively to the business for which it had been called, and rejected, or declined to consider, two

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<sup>72</sup> *Ibid.*, 166-73.

<sup>73</sup> *Ibid.*, 254.

<sup>74</sup> *Ibid.*, 248, 250.

<sup>75</sup> *Ibid.*, 232, 248.

<sup>76</sup> *Ibid.*, 265-66.

<sup>77</sup> *Ibid.*, 253-55.

<sup>78</sup> *Ibid.*, 268-70.

<sup>79</sup> *Ibid.*, 232, 247, 266.

constitutional amendments which had no relationship to the primary purpose of the convention. The Committee on the State Constitution had included a statement in its original report that it was of the opinion that “it is not necessary or proper, at the present time to enter into other or further alterations or amendments of the Constitution . . .”<sup>80</sup> The Committee reiterated this stand near the close of the convention when it reported unfavorably on a proposed amendment which would have repealed the section of the constitution fixing the capital at Jackson.<sup>81</sup> Another amendment that was rejected would have empowered the legislature to increase the jurisdiction of justices of the peace in cases involving debts and promissory notes. Some who agreed that such a change was desirable opposed it because its passage might be the opening wedge to numerous general amendments to the constitution.<sup>82</sup>

The convention rejected several other amendments, ordinances, and resolutions. One resolution would have requested the state’s congressmen to promote a scheme of colonization for the freedmen in order to prevent the prevalence of pauperism.<sup>83</sup> A proposed amendment would have given the boards of county police the power to make regulations relating to the rights and duties of apprentices, and to suppress vagrancy and punish vagrants.<sup>84</sup> The Committee on Ordinances and Laws recommended against the adoption of a resolution which would have made grand larceny, robbery, rape, arson, and burglary capital crimes. The committee was of the opinion that the subject matter of the resolution should be left to the action of the legislature. The convention evidently agreed with this view, and with the argument of William Yerger that the convention’s powers were limited to the purposes set forth in the president’s proclamation.<sup>85</sup> Early in the convention [Robert] Hudson introduced an ordinance which would have prohibited any future legislature from imposing punishment or disability on the citizens of the state for having participated in the late war, but the convention took no action on this proposal.<sup>86</sup> The adoption of any of the foregoing proposals would almost certainly have bought criticism on the convention from the northern Radicals, and their rejection

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<sup>80</sup> *Ibid.*, 30.

<sup>81</sup> *Ibid.*, 232, 248.

<sup>82</sup> *Ibid.*, 42, 250-53.

<sup>83</sup> *Ibid.*, 247.

<sup>84</sup> *Ibid.*, 30, 266.

<sup>85</sup> *Ibid.*, 258-65.

<sup>86</sup> *Ibid.*, 28. There was no recorded vote on any of the proposals discussed in the above paragraph, and the only one that was debated was the resolution on the punishment of crimes.

was evidence of the moderate and conciliatory action of the convention.

Two proposals or actions of the convention were criticized as a result of being incorrectly reported or interpreted. The *New York Times* criticized the convention for memorializing the president to withdraw all Negro troops from Mississippi. Such a memorial had been suggested in the convention, but was not adopted.<sup>87</sup> The northern press also criticized the convention for appointing a committee to draw up a memorial to the president asking clemency for Jefferson Davis and Governor Charles Clark. [Robert] Hudson had offered a motion to appoint such a committee, but he withdrew the motion after some members pointed out that sending the memorial as the official act of the convention would prejudice the object for which they were convened, and probably weaken the cause of Davis and Clark. The members did, however, sign a memorial as private individuals, and later they agreed to forward to the president a similar memorial which had been signed by more than four thousand ladies of the state.<sup>88</sup>

The Committee on the State Constitution recommended against the passage of a resolution to submit the amendments and ordinances adopted by the convention to the voters of the state for ratification or rejection. They did not consider a referendum "practical or expedient . . . under existing circumstances." The committee report was agreed to by the convention without a recorded vote.<sup>89</sup> There was strong support, however, for a proposal to submit the abolition amendment to the people. An ordinance to provide such a referendum was tabled by a fifty to forty-four vote.<sup>90</sup>

On August 24, Governor Sharkey sent to the convention a telegram he had received from President Johnson. In this dispatch the president expressed his gratification that the proceedings of the convention were so favorable. Johnson said that the action of Mississippi would set an example for the other state conventions and exert a powerful influence on them. He promised to remove the troops from the state and to restore

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<sup>87</sup> *New York Times*, August 24, 1865. *Convention Journal*, 23-24.

<sup>88</sup> *New York Times*, August 24, 25, 1865; *New York World*, August 25, 1865; *Meridian Daily Clarion*, August 27, 1865; *Convention Journal*, 39-42, 256-58.

<sup>89</sup> *Convention Journal*, 225, 233. Governor Sharkey later said he had not thought it necessary to submit the amended Constitution to the people. The convention had been elected for the purpose of amending the constitution as they did, and he felt sure the people were fully represented and were satisfied with the result. *House Miscellaneous Documents* No. 53, 40 Cong., 3 sess., 42; *Report of the Joint Committee of Reconstruction*, Part III, 134. None of Mississippi's Conventions prior to this time had referred their work to a vote of the people.

<sup>90</sup> *Convention Journal*, 225, 233, 248-49.

the writ of *habeas corpus* as soon as he thought it safe to do so.<sup>91</sup>

The convention adjourned on August 24, after a session of ten working days. The motion for adjournment contained a provision that the president of the convention might reconvene it within six months “if the exigencies of the country require it.” If such a necessity did not arise, the convention would stand adjourned *sine die*.<sup>92</sup> On August 28, Governor Sharkey transmitted to Secretary of State William H. Seward a copy of the amended constitution and all amendments, ordinances, and resolutions passed by the convention. Seward acknowledged receipt of the constitution on September 8, and said the president would give it his early attention.<sup>93</sup>

The work of the convention met with general approval in the South and among the conservatives of the North. The conservatives pointed to the convention’s actions as evidence that President Johnson’s plan of reconstruction was now established and assured of success. They considered that the convention had acted with moderation, wisdom, and complete good faith, and that the Radicals would be silenced by its actions and have no further basis for criticism.<sup>94</sup> Even some of the Republican newspapers in the North approved much of the convention’s action.<sup>95</sup> On the other hand, there was much criticism. Some critics feared that the convention had failed to provide sufficient safeguards for the rights of the freedmen. They thought that such an important matter should not have been left to the legislature for action,<sup>96</sup> and feared that the wording of the latter part of the abolition amendment might authorize restrictive legislation against the Negroes.<sup>97</sup> Some criticized the amendment of the bill of rights, considering it a step toward attempted reenslavement of

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<sup>91</sup> *Ibid.*, 265; *Meridian Daily Clarion*, August 26, 1865; Andrew Johnson to W. L. Sharkey, August 21, 1865, *Senate Executive Documents*, No. 26, 39 Cong., 1 Sess., 229-30. Johnson’s dispatch was evidently in reply to a telegram from Sharkey which quoted the abolition amendment and predicted the convention would pass it by a large majority. W. L. Sharkey to Andrew Johnson, August 20, 1865, Andrew Johnson Papers, Library of Congress.

<sup>92</sup> *Convention Journal*, 267, 275.

<sup>93</sup> *Senate Executive Documents*, No. 26, 39 Cong., 1 Sess., 60-61.

<sup>94</sup> *Columbus Mississippi Index*, September 12, 1865, quoting *Washington Chronicle*, August 25, 1865; *ibid.*, September 9, 1865, quoting *New York Express*; *New York World*, August 25, 1865; *New Orleans Daily Picayune*, August 23, 1865; *Meridian Daily Clarion* August 26, 1865.

<sup>95</sup> *New York Times*, August 29, September 6, 1865.

<sup>96</sup> *Ibid.*, August 26, 1865.

<sup>97</sup> Schurz, *Report*, 33-34.

the Negroes.<sup>98</sup> Perhaps the main fault the Radicals found was the failure of the convention to grant the Negro any political rights, and they used this as an excuse to attack the entire presidential plan of reconstruction.<sup>99</sup> President Johnson had foreseen this when he urged the convention to grant limited suffrage to the Negroes, but this proposition was not even discussed on the floor of the convention. It was evidently as unthinkable to [white] Mississippians of 1865 that Negroes should be granted even a limited right of suffrage as it was to most of their countrymen of that day, North or South, or as it was to many southerners of a later day.<sup>100</sup> Some conservatives considered it unfortunate that Mississippi's convention did not take the president's advice on the matter of Negro suffrage, and thus set an example for the other states to follow. Historians of a later date have agreed with them.<sup>101</sup> It is questionable, however, that such action would have had much effect either on other state conventions or on the subsequent policy of the Radicals.<sup>102</sup>

Apparently there was no criticism of the convention for its failure to ratify the Thirteenth Amendment, for there was general satisfaction with the abolition amendment to the state constitution. The question of ratifying the Thirteenth Amendment did not come up in the convention; the members probably considered this to be the business of the legislature. The president had urged its ratification in his dispatch of August 15, but in a later message to Sharkey he said that either the convention could adopt the Thirteenth Amendment, or could recommend

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<sup>98</sup> J.S. McNeily, "War and Reconstruction in Mississippi," *Mississippi Historical Society Publications*, Centenary Series, II (1918), 314; Samuel S. Cox, *Three Decades of Federal Legislation* (Providence, 1885), 392.

<sup>99</sup> Charles Sumner used particularly violent language, in a speech before the Massachusetts Republican convention, in condemning the actions of the Mississippi convention, which he knew had been approved by the president. *New York World*, September 16, 1865.

<sup>100</sup> Several northern states did not permit Negroes to vote in 1865. Between 1865 and 1868, by legislative or popular vote, Negro suffrage was rejected by eight northern and mid-western states. C. Vann Woodward, "Equality: America's Deferred Commitment," *The American Scholar*, XXVII (Autumn, 1958), 469.

<sup>101</sup> Cox, *Three Decades of Federal Legislation*, 391; James Ford Rhodes, *History of the United States from the Compromise of 1850*, 8 vols. (New York, 1893-1919), V, 535-36.

<sup>102</sup> It should also be remembered that the president's proclamation had stated that either the convention or the legislature should prescribe the qualifications for voters.

its adoption to the legislature.<sup>103</sup>

The insistence on the repudiation of the rebel debt by the state conventions apparently did not become a part of President Johnson's plan of reconstruction until after Mississippi's convention had met.<sup>104</sup> The subject of repudiation was not an issue in Mississippi's convention as it was in those of the other states, and the convention does not seem to have been criticized at the time for its failure to repudiate the debts.<sup>105</sup>

There were other problems, mostly in connection with the freedmen and their rights, which the convention did not consider. These problems either had not come up as issues as early as August, or else the convention specifically or impliedly left them for the action of the legislature, which it considered the proper body to handle them.<sup>106</sup> The convention might be criticized for leaving these matters to the legislature, for as it turned out

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<sup>103</sup> Andrew Johnson to W. L. Sharkey, August 15, 1865 and August 21, 1865, *Senate Executive Documents*, No. 26, 39 Cong., 1 Sess., 229-30. Sharkey had called the president's attention to the fact that "the amendment to the Constitution of the United States is referred by Congress to the Legislatures." Sharkey to Johnson, August 20, 1865, Andrew Johnson Papers, Library of Congress. After the convention adjourned Sharkey correctly predicted that the legislature would not adopt the Thirteenth Amendment because of its second section. Sharkey to Johnson, August 28, 1865, Andrew Johnson Papers.

<sup>104</sup> Johnson did not mention repudiation in his proclamation appointing the provisional governors nor in his messages to Sharkey before, or during, the convention. In messages to other provisional governors later in 1865, however, Johnson insisted that the conventions repudiate the debt. See, for example, Johnson's telegram of October 18, 1865, to Governor W. W. Holden of North Carolina, *Senate Executive Documents*, No. 26, 39 Cong., 1 Sess., 226. All the other state conventions except South Carolina's passed ordinances specifically repudiating the debts.

<sup>105</sup> The convention discussed the question of repudiation in connection with the repeal of the two ordinances of the secession convention which had provided for the issuance of treasury notes, but action on these ordinances was left to the legislature. The specific exclusion from the validated legislative acts of 1861-1865 of all acts in aid of the rebellion might be considered repudiation of the debt, but the convention apparently did not so consider it. Sharkey, in testimony before the Joint Committee on Reconstruction said: "You will find that in our amended constitution we have repudiated the most of our debt, with one or two exceptions. The truth is that none of it will be paid; we do not regard it as a binding debt." He pointed out that the state constitution prohibited the pledge of the faith of the state for any debt, unless the law was passed by two legislatures. Although the secession convention had changed this provision, the convention of 1865 had repealed the acts of the secession convention, and thus the obligations of the state created during the war were not binding or constitutional. *Report of the Joint Committee on Reconstruction*, Part III, 135. The constitutional convention of 1868 specifically repudiated the notes and bonds issued in aid of the rebellion. See John K. Bettersworth, *Confederate Mississippi, The People and Policies of a Cotton State in Wartime* (Baton Rouge, 1943), 129, on the subject of the extent of the debt and its repudiation.

<sup>106</sup> As early as August 26, however, a prominent Mississippian writing from Washington predicted that there would be four prerequisites for admission of the representatives of the southern states to Congress: adoption of a free ordinance, repudiation of state and Confederate war debts, permitting the Negro to testify in courts, and giving the Negro a limited franchise. James L. Alcorn to his wife, August 26, 1865, Alcorn Papers, Southern Historical Collection, University of North Carolina.



that body was not as wise or as moderate in its actions as the convention had been, and the passage of the Black Code gave the Radicals an added excuse for excluding the southern representatives from Congress.

In conclusion we may say that Mississippi's Reconstruction convention of 1865 successfully completed the task for which it had been assembled. The delegates did all that could have been expected of any group that might have been elected in Mississippi within three months of the close of the Civil War. They met all of the president's demands, and complied with all but one of his suggestions. A majority of the members took a narrow view of the powers of the convention. They confined their actions to necessary alteration and amendment of the constitution, to undoing the work of the convention of 1861, and to validating legislation and other official acts of the war years. Not only did the convention leave to the legislature matters of a statutory nature in connection with the freedmen's rights, but it also declined to make constitutional changes which were essentially statutory, or those which were not directly connected with the purpose for which the convention was called. The action of the delegates was characterized by circumspection and moderation, and there is no reason to believe that the vast majority of them were not acting in complete good faith. The members set a good example for other state conventions, and for the legislature of their own state. It seems unfortunate that the legislature which met in the autumn of 1865 did not display as much wisdom, moderation, and restraint as had been shown by the constitutional convention.