BLACK LAWS OF OHIO

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BY

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Approved by:

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CHAPTER I

BACKGROUND

Ohio was settled by people who had fairly well defined ideas concerning the negro. These early pioneers came largely from four states: 1. Pennsylvania furnished settlers of German stock who made their homes in the central and southwestern parts of the state, and Quakers who settled in its eastern and in some of its southern counties; 2. Connecticut contributed settlers for the Western Reserve region; 3. Massachusetts sent settlers to the southeastern sections; 4. Virginia and Kentucky furnished the settlers who early crossed the Ohio River in great numbers and guided the political destinies of the early years of Ohio. Another element, hard to classify and yet contributing to the mixture of Ohio's population, was the Scotch-Irish.

Due to this intermixture at least five different groups were found in Ohio and may be classified as to opinions held relative to the negro and slavery: 1. The proslavery men; 2. The German element which opposed the extension of slavery; 3. The Southerners who had freed their slaves; 4. Those who favored the Colonization movement; and 5. The abolition or antislavery men who demanded that the negro be made a free man.

The proslavery men, largely from Virginia and Kentucky, had been attracted to Ohio by the fertility of the soil. They felt that the new country would profit by the introduction of slavery.
The German element had no scruples against slavery and did not object to its extension so long as it did not reach over into Ohio. They felt that slavery in the South would drive the best immigrants to the North where work was honorable; as a result of this arrangement the North would profit inevitably and be more prosperous than the South.8

A great number of Southerners who came had freed their slaves before migrating to the new state. They recognized the inefficiency of slave labor, admitting it to be expensive for the employer and unjust for the negro. They had no disposition to grant to the free negro similar privileges which were granted to the white man. This class dominated politics, sat on the judicial benches and were largely responsible for the Black Laws.9

There was a small number of people in Ohio who supported the Colonization movement. This movement had for its aim the deporting of the colored, taking them back to their native land and establishing colonies for them there. "Having very few free blacks in the state for it to operate upon, little has been done here by it. "In other words, having nothing to do, it has done nothing." So writes an early Ohio Chronicler.10

The last division (5) identified itself with the Abolition or Antislavery Society. Dr. Franklin was the president of the first of these societies organized in Philadelphia, Pennsylvania. The purpose of this organization was to protect and defend those who were unjustly held in slavery.11

Many opinions were held as how to achieve this end. Some of
the Garrison type believed in abolition at any cost, and others followed Lundy and Birney advocating more peaceable methods. A variety of settlers supported this movement. The leading followers were Quakers, and some New Englanders. Oberlin became the favored spot for the abolitionists of the West, as Boston was for the East.
CHAPTER II

THE NEGRO AND OHIO'S FIRST CONSTITUTIONAL CONVENTION

Ohio's first Constitution was drafted at Chillicothe, November 1802. The records are unfortunately meager, nevertheless they contain important facts bearing on the colored man and his status in the proposed State. At least six motions of the convention reached a vote. The first was precipitated when the committee on electoral qualifications reported that suffrage should be granted only to "white" male citizens. At once a motion was offered to strike out the word "white", but it was lost by five votes. Those voting against it were, in the main, from Ross and Jefferson counties, which contained the major portion of the persons of color then residing in Ohio. 13

The second motion involving the negro proposed to grant suffrage to those of his race who were then resident in the State, provided they made a record of their citizenship within a specified time. The motion carried by four votes, Ross and Jefferson counties leading in the opposition. 14 Encouraged by their success, the delegates interested in extending suffrage to the negro, introduced another motion which provided that the male descendants of such male negroes and mulattoes as shall be recorded, shall be entitled to the same privilege. This motion lost by one vote, Ross, Jefferson and Belmont voting as a unit against it. 15

Next those not deeming it wise to grant the blacks equal political rights, proposed that they be barred from holding pub-
lic office, and from offering testimony against a white man in any court of justice. A provision was made, however, that the negro would be exempt from military duty and would not be required to pay a poll tax. Aside from these regulations all persons of color were "to be entitled to all the privileges of citizens of this State not excepted by this constitution." This motion was carried by three votes. Again Ross and Jefferson counties led in proposing and passing this motion. Adama, and Trumbull, the Western Reserve county, returned a solid vote in favor of this proposal. This is the only motion, intended to limit the civil rights of the negro, that received the complete support of Trumbull. It would seem at this point that not only the right of suffrage but even the ordinary civil rights would be denied the negro.16

Two final motions were proposed: a fifth, to rescind the second motion which gave the ballot to negroes then resident, and a sixth to rescind the fourth which excluded the negro from all public offices and from a right to testify against a white man. Each carried by one vote. Again Ross and Jefferson aided by Belmont and Adams voted against the negro. Had Hamilton county not supported the Marietta and Western Reserve group the cause of the negro would have been in a sad state.17

The discussion relative to the negro had now reached a white heat. But both sides being evenly divided, it seemed the part of wisdom to drop the negro question. Fear lest the convention break up without forming a constitution led to the complete abandonment of all propositions that had been made, and the
delegates proceeded to draft a constitution that totally ignored the status of the negro. ¹³

Much as it was desired that the black man and his fortunes be ignored to preserve peace in the convention, the question of his status came up again in the committee forming the Bill of Rights. John W. Brown, a Virginian, of Hamilton county, chairman of this committee submitted the following: "No person shall be held in slavery, if a male, after he is thirty-five years of age, or, if a female, after twenty-five years of age." ¹⁴ From this resolution it is reasonable to suppose that Mr. Brown believed, or pretended to believe, that as far as negro slavery was concerned, Ohio, as a state, could have it, at least a modified form. Judge Cutler, a New Englander and son of Manasseh Cutler, was also a member of this committee. He moved that Mr. Brown's proposed section be tabled until the next morning. In the meantime each member of the committee was to prepare a section, in writing, which should fully express his views on the subject. ²⁰

The next morning when the committee met Judge Cutler presented his proposed section. ²¹ What followed can best be expressed in his own words: "I then read to them the section as it now stands in the Constitution. Mr. Brown observed that what he had introduced was thought by the greatest men in the nation to be, if embodied in the Constitution, a great step toward the emancipation of slavery, and was in his opinion greatly to be preferred to what I had offered." ²²

Judge Cutler's proposed section was finally adopted by the
committee with a bare margin of one vote. When it came before the convention a storm of protest arose which gained such strength that even Cutler felt the section would be lost. In fact Mr. Cutler was about to propose that a compromise be affected by striking out some of the more obnoxious parts. However one member changed his vote and the section finally passed in its original form by the slight margin of one vote. Thus twice, once in the committee and later in the convention, one vote saved Ohio from having some form of negro slavery. That a great share of the credit for this is due Judge Cutler, there can be no doubt.

An evaluation of the forces and motives at work during the convention will be of value in understanding later negro legislation. In the convention there were some New Englanders who represented for the most part northeastern and southeastern sections of the state. But the majority of the members of this convention were originally from southern states, largely Virginia and Kentucky.

An analysis of the vote on important motions shows that in some cases the Southern vote was for the negro, in others against him. This same observation is true likewise of the New England group. That the vote shows an inconsistency on the part of the delegates, there can be no doubt, yet if we sense one underlying motive that lay near the hearts of the majority of the delegates, we may be able to account for some of this apparent inconsistency. That the majority of them did not desire a form of slavery for Ohio is evident by their approval of
Cutler's section of the Bill of Rights. However, the point and eventually the thesis that the author wishes to establish will explain their real motive. Our delegates wished to make the status of the negro such that further migration to Ohio would be sharply discouraged.

In conclusion the makers of our Constitution were determined to place the negro in much the same position as the Indian. The black man was permitted to live in the State and was protected by its laws, but any participation in the making of the laws he obeyed was denied him. Civic duties such as bearing arms were not required of the negro, neither was he granted any of the rights of a white male citizen in Ohio's first state Constitution.
CHAPTER III

ENACTMENT

The status of the negro did not long remain as fixed in the first Constitution. In 1804 the legislature passed a law "to regulate black and mulatto persons". According to this act, persons of color were forbidden to reside in Ohio, unless they possessed a certificate of freedom and had it registered by their county clerk who received 12½ cents for such registration. Residents were not permitted to hire a negro who did not carry a registration card. Employers who violated this act were liable to two forms of prosecution. First, a fine of not less than ten nor more than fifty dollars might be imposed. Second, the resident on conviction might be required to pay the owner of the negro fifty cents per day for such person's labor. The Law further provided that a local judge should, if satisfactory evidence of ownership was given, order the arrest of an unregistered negro and return him to his owner or agent.25

The law of 1804 was generally opposed by counties having few negroes and supported by sections where the blacks were more numerous. Claypool and Massie of Ross, a county at that time possessing the greatest number of blacks, supported the act. On the other hand Tappan of Trumbull and Sargent of Clermont opposed it.26 Under such law, it would seem that Ohio would not be a desirable place for the colored people to reside. Yet negroes continued to come to Ohio. According to the census report for 1800, 337 negroes resided there. By 1810 the number had
increased to 1890.27

In order to place a greater restriction on negro immigration, in 1807 the Legislature amended the law of 1804. In addition to a bond of $500, the new act required the blacks to furnish security signed by at least two responsible residents who guaranteed the keep and good behavior of their colored friends. As a further mark of evidence that the negro immigrant was not wanted here, the charge for registering the bond was raised from 12½ cents to one dollar. At the same time a fine of one hundred dollars was authorized against anyone harboring a black who did not possess a certificate showing that his bond had been given and registered.28 Perhaps the most serious part of this law was the prohibition of negro evidence in a case where a white person was involved.

No other one of the Black Laws was fought so long and so bitterly as the law of 1807. It was first presented in the Senate, December 21, 1806. When the bill reached the House it was sent to a committee, there to remain until January 2, 1807, when it, with amendments, was presented and read. The amendment stated that a negro, who failed to give bond, should be hired out for a period of one month. At the end of that time he was given ten days to leave the State. If on the expiration of those days of grace, he had not departed, he was to be hired out a second time. Thus the law was to function until the black would depart from the State. However, this amendment failed by just one vote.29 Eventually, and after an effort had been made to postpone action for another year, the original bill without
this proposed amendment passed. The final ballot shows 20 favoring this bill and 9 opposing it. Again those favoring further restrictions on the negro were from the southern counties. Ross, Hamilton, Adams, and Gallia had a large number of negroes and supported the measure at all times. On the other hand those who fought the bill were, in the most part, from counties having few negroes and located in the upper portion of the State. Among this group were found Tatman of Greene, Kingsberry of Trumbull, and Guckel of Montgomery.30

Following 1807 many changes were made in Ohio and her distribution of population. In that year the majority of the twenty-nine members in the House were from southern counties.31 In 1819 sixty-one members represented, at least, twenty northern counties.32 It is only necessary to recall the stand taken by northern counties in 1807, to understand why sentiment favorable to the negro was increasing. Moreover, the number of negroes in northern counties was small, hence, they created little or no problem in that section.33

No more mention is made of the blacks or mulattoes in the Legislature until the year 1819, when "an act to punish kidnaping" was passed. This made any person or persons, who under any pretense, seized upon any black or mulatto person within the State without first establishing his ownership to same in some appropriate court of justice, subject to indictment for misdemeanor. Upon conviction they might be confined in the penitentiary at hard labor for a space of not less than one nor more than ten years.34
For a period of ten years the colored man escaped legislative action, but on February 12, 1829, a law was enacted "to provide for the support and better regulation of the Common Schools," which involved them. According to this act a fund was to be raised in the several counties of the State for the education of the youth of every class except the colored. However, the property of negroes was not subject to taxation unless the funds so derived were used for the education of black and mulatto persons.35

At this time quite a discussion arose over whether or not negro children should be allowed to attend the Common Schools. An amendment to the bill to regulate Common Schools provided that negroes might have the right to attend these schools. When the vote was taken the amendment lost, 50 opposing and 18 favoring the proposed plan.36 An analysis of the vote shows that the Legislators, favoring the admission of the colored to the schools represented, among others, Perry, Cuyhoga, Trumbull, and Richland, counties having a small number of negroes. On the other hand, such counties as Hamilton, Ross, Brown and Belmont, each with more than five hundred negroes, opposed the amendment.37

In 1831, a series of acts was passed affecting the status of the negro. They were: (1) "an act relating to juries"; (2) "an act to prevent kidnapping"; and (3) "an act for the relief of the poor".

According to the "act relating to juries", the county clerks were to consider only white male inhabitants in proportioning
and choosing a jury. Thus was the negro effectually barred from the jury box. How this act proved to be a great disadvantage and handicap to the colored people will be discussed in another section.38

February 15, 1831, the Legislature passed the "act to prevent kidnapping". This law repealed a similar one of 1819, and provided a more stringent penalty for the offense. The price paid for the violation of this law was changed from the penalty imposed by the law of 1819, to confinement in the penitentiary for not less than three nor more than seven years.39

Near the close of the session of the General Assembly of 1831, a lively discussion was waged over a proposed act to provide for the relief of the poor. This bill declared: (1) that negroes could not become legal residents; (2) that only legal citizens were entitled to the relief extended to the poor; and (3) that the overseer of the poor was authorized to eject from the State all those who could not make a legal settlement.40

Much objection was raised over the use of "legal". Mr. Earl of Portage, a county having few negroes, fought the "legal settlement" phase of the proposed law, and asked that it be struck out. Only 5 supported Mr. Earl's proposition, 59 voting to deny persons of color the right "of legal settlement".41 The vote on the bill as first drawn was then taken. The same men, Earl of Portage, Davenport of Belmont, Marshall of Columbiana, McDonald of Champaign, and Chapman of Clermont opposed its passage. On the other hand, the 59 men who had defeated Mr. Earl's amendment voted for the Act.42
After this flood of negro legislation in 1831, there is a comparative lull for a number of years. Finally, in 1838, when a bill for "the better support of the Common Schools of the State" was pending, the question of who should be allowed to attend these schools came up. Section 9 of this law provided, "that in all cases...when public money is applied for the support of the schools...they shall be open for all the white children in the district...." Mr. King of Trumbull moved that the word white be struck out. The motion lost, yeas 2, nays 30. Mr. Wade of Ashtabula and Mr. King of Trumbull were the only two voting for the amendment. There were less than one hundred negroes in the counties represented by these two men. 4

February 26, 1839, the Ohio Legislature passed an act, "relating to fugitives from labor or service from other states."
The first portion of this law defended its enactment as being a constitutional duty of a state to deliver up, on claim of the owner, persons held to labor in another state. This law held that Ohio was not doing her duty in knowingly allowing the escaped negro to go through or to be harbored within its bounds. This act of 1839 made it possible for an owner or his agent to secure a "blanket warrant" to aid in the capture of his property. The form of the warrant is interesting:

The State of Ohio, county s.s.

To any sheriff, or constable of the State of Ohio greetings

This is to authorize and require you to seize and arrest the body of (_________) sworn or affirmed to be the slave or
servant (as the case may be) of (_______) of the State of (_______) and in case of arrest in your county, to bring such person so arrested forthwith before some judge of a court of record of this State, residing within the county in which the arrest may be made, to be dealt with as the law directs."

The penalty for hindering an officer in the discharge of his duty, or for harboring slaves was a fine of not more than $500, or 60 days in jail. Moreover, such a violater of this law was liable to suit from the owner of the slave in question. 45

A number of facts may be gathered from the above act. First, Ohio was at this time convinced that she was duty bound to return, if possible, runaway slaves. Second, such avowal of duty seems to ring true in the face of the machinery set up to carry out this conviction. Further, the sincerity of purpose is strengthened by the penalties attached for violation of this act.

According to the Journals of the House and Senate, a number of resolutions paralleled and accompanied this act. Mr. Flood of Licking offered for adoption the following series of resolutions which were eventually passed in toto: 46

(1) Resolved by the House and Senate of Ohio that in the opinion of the General Assembly, ours is a government of limited powers; that all power not delegated by the Constitution is reserved to the people and that by the Constitution of the United States Congress has no jurisdiction over the institution of slavery in the several states of the confederation.

(2) Resolved; That the agitation of slavery in the non-
slaveholding states is in the opinion of the General Assembly attended with no good; that the amelioration of the condition of the slaves is not enhanced and it is a violation of the faith which ought ever to exist among states in the same confederacy.

(3) Resolved: That the schemes of the abolitionists for the pretended happiness of the slaves, are in the opinion of this General Assembly, wild, delusive, and fanatical, and have a direct tendency to destroy the Union, to rivit the chain of the slave, and to destroy the perpetuity of our free institutions.

(4) Resolved: That all attempts to abolish slavery in the States of this Union; or to prohibit the removal of slaves from State to State or to discriminate between the institutions of one portion of this country and another...are in the opinion of this General Assembly, in violation of the Constitution of the United States and destructive of the fundamental principles on which rests the union of these states.

(5) Resolved: That...it is unwise, impolitic, and inexpedient to repeal any law now in force, imposing disabilities upon black and mulatto persons thus placing them on an equality with the whites,...and indirectly inviting the black population of other states to emigrate to this state, to the manifest injury of the public interest.

(6) Resolved: That the Governor be requested to forward copies of these resolutions to the President and Vice President of the United States, to each of our Senators and Representatives in congress, and to the executive of every state in the Confed-
eracy.

An interesting amendment was proposed to the first resolution by Mr. Hamilton, a representative of Miami, Darke and Mercer counties. A part of this proposed amendment stated: "yet in justice to ourselves we at the same time declare that we are most ardently attached to our own system, and can never consent to violate what we consider the rights of the people of this State to quiet the apprehensions of our Southern friends." This proposed amendment failed to pass by a vote of 22 to 41. This action showed that a majority of the legislature was not willing to turn a deaf ear on Southern calls for more stringent laws that would aid in the apprehension of runaway slaves.

The vote on these several propositions is informing. The first carried 62 for to 2 opposed, Mr. Garrett of Portage and Mr. Lloyd of Cuyahoga voting against the resolution. On the question, "Shall the resolution pass", on the second division the vote was 58 yeas, 5 nays. All those voting against it were from counties having a small negro population. The remaining five resolutions finally passed by large margins. The nays on all votes came largely from counties having a small number of negroes.

The question of negro education was brought before the Legislature again in 1848. In February of that year, Mr. Blake of Medina county sponsored an act which provided for the establishment of common schools for the education of black and mulatto children. This bill made negro property taxable for school purposes and ordered that a strict account be kept of
such money. Moreover, funds derived from taxes levied on negro property were to be expended only for their education, unless their children were permitted to attend the schools maintained for white children. In such a case the taxes received from the property of colored persons should be placed in a common school fund.\textsuperscript{48}

The proposed law attempted to provide for all situations. The bill fixed twenty as a minimum necessary for a separate district. If such a district was formed the blacks might erect their own buildings, employ their teachers, and manage their schools. On the other hand, if there was not a sufficient number of colored children to form a separate school, and undoubtedly such was the case in many counties, the blacks might attend the schools maintained for white children, providing no patron or legal voter offered a written objection to the clerk of the district.\textsuperscript{49}

The bill was easily passed. Possibly the silence of some indicated that many considered the law a farce.\textsuperscript{50} Certainly it was little more. No financial aid was given the negroes to assist them in establishing schools. Moreover, in several counties as many as twenty children could not be found; and according to this law one man might, if he so desired, bar the colored from the general public schools.
CHAPTER IV

ENFORCEMENT

Reliable evidence of the enforcement of the Ohio Black Laws is not found until 1829. In the spring of that year the authorities of Cincinnati issued a proclamation stating that every colored man who did not fulfill the requirements of the law in thirty days should leave the city. Moreover, it became the duty of the overseer of the poor to remove all such persons who failed to comply with this proclamation.

In the meantime the colored population held a meeting and petitioned the trustees of the city for permission to remain thirty days longer. The colored people at once sent a committee to Canada to see what provision could be made for them to live there, but the sixty days expired before they returned. Then the local white populace took the matter in hand. Finding that so few had given security, and seeing no movement being made to do so they determined to inflict the penalty.

For three days and nights the fury of the prosecutors was let loose upon the colored section of the city whose inhabitants appealed in vain to the city authorities for protection. Despairing of help from the whites, they barricaded their homes and defended themselves. Some whites as well as blacks were killed and the mob finally retired.

Meanwhile, the committee sent to Canada returned with this gratifying word: "Tell the Republicans on your side of the line that we Royalists do not know men by their color. Should you
come to us, you will be entitled to all the privileges of the rest of His Majesty’s subjects." On receipt of this news a large number of the colored people of Cincinnati migrated to Canada and formed Wilberforce Settlement.54

Again, in 1830, a similar case appeared at Portsmouth, a town in Scioto county. Of this incident N.W. Evans in his "History of Scioto County" says: "On January 21, 1830 all the colored of Portsmouth, Ohio were forcibly ejected from the town....They were not only warned to go, but were driven out by the order of the town officials."55

The two cases just cited show how the failure on the part of the negro to give bond was handled. However, this was not the only line of enforcement pursued. In 1831 the case, Polly Gray vs. the State of Ohio, attracted much attention. This involved that section of the law of 1807 which forbid black or mulatto persons to give evidence in any court where either party was a white person. It was first tried in Hamilton county. There Polly Gray, a quadroon, had been found guilty on a charge of robbery largely on the evidence of a negro. The case was carried to the Supreme Court where the decision was reversed because Polly Gray, having more white than negro blood was declared white. As such she was immune from punishment on testimony by a negro.56 Judge Reed commenting on this case said: "The exclusion of persons of color or of any degree of colored blood from all political rights is not founded upon mere naked prejudice, but upon natural differences....The policy of the State always has been to discourage the immigration and settlement of
persons of color among us. The decision of this court conferring the political rights upon all less than half black is an inducement for such to immigrate to the State and remain here."57

Evidently, from Judge Reed's comment there was a successful desire to check negro immigration. An examination of the census reports for Ohio of 1800 and 1810 show a decrease of 31.48% in negro population between these years. More than that the percent of negroes coming to Ohio continued to decrease for the next forty years.58

Time and again cases were carried to the Supreme court seeking a definition of the word "white".59 In all cases the decision in the Polly Gray case was sustained. However, another type of case was presented to the Supreme Court for decision. This case involved the section of the Black Laws prohibiting the harboring or concealing of slaves.

James Birney, a citizen of Cincinnati, had been indicted, found guilty of harboring and concealing a fugitive mulatto, and fined fifty dollars. Salmon P. Chase appealed the case to the Supreme Court which reversed the decision given by the Cincinnati court stating: "There is no averment that the plaintiff in error knew the facts alleged, that Matilda was a slave, and the property of Larkin Lawrence. Such knowledge was an ingredient necessary to constitute his guilt. This knowledge should have been averred in the indictment and proved on the trial, for without such knowledge, the act charged as a crime was innocent in its character."60
Not all cases of befriending the negro terminated so satisfactorily. One well known case will illustrate this point. "Ad" White, a fugitive slave, stopped in Mechanicsburg and was employed on a farm nearby. Sometime later, officers from Cincinnati arrived with a warrant for his arrest. They were warned that White was not only strong and desperate but intended to shoot to kill anybody attempting his capture. Nevertheless, the officers, followed by a crowd of citizens, attempted to capture White. In the meantime, he, having been warned of their approach, retired to the attic of the farmhouse. The officers ordered him to come down but he refused to do so adding that he would shoot anyone who attempted to come up the ladder to capture him. After some parleying one of the officers started up the ladder. White again warned the officers but it appears they considered it a bluff. Seeing that warning was in vain, White shot wounding the officer. Fortunately, the wound was not serious. Now the officers deputized some of the bystanders ordering them to take White. They refused to obey and began to hoot the officers. At this point the officers deemed it best to retire, saying that they would return at an early date to finish their work.

By this time the news of the proposed capture had spread like wild fire, and several prominent citizens and officers of Champaign county had become involved. It appeared that serious trouble would arise. Fortunately, the sober second thought of the citizenry prevailed and an agreement with White's owner was reached whereby he was purchased by means of popular sub-
scription.61

The last two illustrations have been given to show that, in the enforcement of her fugitive slave acts, Ohio was not entirely without action. To be sure Birney succeeded in having his case reversed yet Matilda, the mulatto in question, was returned to slavery and in the White case the legal mind of the community thought it a safer proposition to buy White than to take a chance on being prosecuted for harboring a slave and resisting an officer. Both of the latter points were expressly prohibited by the Ohio Law of 1839 relating to fugitive slaves.

One other type of case might be presented to show how the Common School Law of 1831 operated. A typical case, Chalmers vs. Stewart, will illustrate quite well the working of the law. Chalmers refused to contribute funds for school purposes and to send his children to school because Stewart, the teacher, had violated the law in permitting colored children to attend the school. The Supreme court of Ohio decided in favor of Chalmers stating: "A teacher therefore can only admit whites in a public school supported in whole or in part by public funds. If he does admit blacks he violates the obligation to keep a legal school."62

It appears that the blacks were barred from both private and public schools.63 Oberlin College stands out as an exception. In 1834 some students of Lane Theological Seminary established little mission schools for the negroes. These students were severely censured by citizens, and some of the faculty and officers of the Seminary. The school authorities of Cincinnati
forced the mission schools to be closed, and as a result, in the year 1835, fifty-one students of Lane Seminary withdrew and entered Oberlin College. They took with them a bright negro boy and asked that he be admitted also. Oberlin, though well known for its antislavery feeling and teaching, had not as yet admitted colored students. However, in 1835 the trustees passed a resolution, by a bare majority of one vote, to open its doors to all students irrespective of color.\(^64\)

The writer finds only one case where the Common School Law was violated, without protest, by any Ohio city. In Cleveland colored persons were permitted to attend the regular schools along with white children. This apparent concession dwindles into insignificance since the entire negro population of Cuy-hoga county, in 1830, was only seventy-four.\(^65\)

Many factors accelerated the enforcement of the Black Laws. Among these was the antislavery agitation of the early thirties which swept the entire North. Birney agitated it through his press, and many antislavery societies were formed in Ohio. Such events tended to cause the people to line up on sides; one friendly, the other unfriendly to the negro. Frequently resolutions were offered in the General Assembly to discontinue any notice of petitions from the antislavery people. Furthermore, the Legislature declared: "these societies to be contributive of no good to the State."\(^66\)

Still another situation contributed to the enforcement of the Black Laws. Some felt there was danger that the state might be overrun by free negroes. The Ohio State Journal, of
May 3, 1827 commenting on the recent settlement of seventy negroes in Lawrence county, said: "These unfortunate creatures have little or no property of value—many are ragged and dirty. The writer of this would censure none for acts of kindness to such, yet as he regards the moral character and welfare of society, he cannot view these rapid accessions without some degree of alarm."
CHAPTER V

REPEAL

Numerous attempts had been made before 1849 to repeal the Ohio "Black Laws", by friends of the negro. In the sessions of the Legislature of 1829-30, and again in 1833-34, memorials were presented asking for the repeal of these Laws, with little or no avail. In 1836-37, the Senate refused to receive any petitions for repeal, and committees of this body, in nearly every session from 1840-1845, reported, "It would be highly impolitic and inexpedient to repeal the laws now in force."

Finally, the peculiar political situation of 1849 made two men, Morse of Lake and Townsend of Lorain, the balance of power. In order to understand how the repeal was possible, it will be necessary to review the political divisions of the Legislature for that year.

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The Independents, Morse and Townsend were the key to the political situation. Both of these men were ardently in favor of the repeal of the Black Laws. It will be noted from the above that should these men throw their strength to the Democrats, this party could control legislation. On the other hand, if
they should vote with the old line Whigs and Free Soilers, the combined vote would dominate legislation. Seeing the advantage they held, these men decided to make the most of their opportunity.73

The Independents, aware of the fact that there would be two places to fill on the Supreme bench, as well as the selection of a Senator, decided to sell their strength to the political group that would pay the price, the repeal of the Black Laws.74 First, Mr. Morse laid the proposition before the Whigs. They refused to support his plan feeling that it was too great a price to pay for their support. Then Mr. Townsend made a similar proposition to the Democrats with the understanding that Salmon P. Chase be chosen senator, and after some deliberation, they accepted. Mr. Chase, who at this time was in Columbus handling a case in the Supreme Court, was notified of the arrangement and asked to draw up the repeal. He responded to the request, and later his bill was introduced in the House by Mr. Morse.75

That Mr. Chase did not resort to any political trickery to gain a political victory is now generally accepted. On this controverted subject Dr. Townsend, in an article on "Salmon P. Chase" delivered before the Ohio Archaeological and Historical Society, said: "Whatever of praise or blame attached to the agreement, coalition, or bargain, by which the Black Laws were repealed and Mr. Chase elected to the Senate, the entire responsibility rests with Mr. Morse and Townsend. Mr. Chase neither suggested nor directed the arrangement....He certainly
used no dishonorable or even questionable means to secure the actual results."76

Finally, January 30, 1849, Mr. Morse presented the bill to the House providing for the establishment of separate schools for the education of colored children and for other purposes. This bill established (1) schools for the colored children, (2) defined color, and (3) repealed the most obnoxious of the Black Laws.77

The last part of the proposed act provided for the repeal of (1) the law of 1804, "regulating black and mulatto persons," (2) the amendment to the act of 1804, passed three years later (1807), (3) the act of 1831, denying negroes the right to gain a legal settlement in Ohio, (4) the law of 1848, providing education for blacks and mulattoes, and (5) "all parts of other laws in so far as they enforce any special disabilities on account of color."78

After the reading of the bill, Mr. Olds of Pickaway county moved that it be tabled; but his motion lost. A vote of the House was then taken and resulted in the passage of the bill. The record of the vote showed 53 yeas, and 12 nays. The twelve men who voted in the negative represented counties which had a comparatively large colored population.79

After the bill was read in the Senate, Mr. Scott of Defiance, Allen, Putnam, Mercer, Van Wert and Paulding moved to recommit the bill to the standing committee on the judiciary, instructing them to so amend it that all colored persons be prohibited from holding real estate within the State of Ohio. This motion
was lost,\textsuperscript{80} whereupon Mr. Archbold of Belmont and Monroe, counties containing a large number of negroes, offered an amendment which proposed to except from repeal "the act relating to juries" and "an act for the relief of the poor." With these exceptions the bill which repealed the Black Laws was passed; the vote being 23 yeas and 11 nays. An examination of the eleven votes cast against the act showed that the men attempting to defeat the bill represented counties that had more negroes than the combined number of colored people found in the counties represented by the twenty-three men who voted for the bill.\textsuperscript{81}

Whether the majority of the State desired the repeal of the Black Laws was and still is a matter of conjecture. However, the attitude of the press reflected, in a measure, that of the State. The Ohio State Journal, February 24, 1849, said: "The announcement that the Black Laws are repealed is received in different quarters with alternate paens and execrations,... our sense of gratification at the repeal of the Black Laws does not result from any conviction that some great end in either ethics or politics has hereby been attained;...it was doubtless thought by many that the repeal of these laws would greatly improve the condition of the colored race in Ohio. We think differently and are of the opinion that it would puzzle the most ardent of their champions to point out the practical advantages which are to result to them from the repeal of these laws. It is but a fancied gain. No act ... for thirty years passed has probably been received with such diverse greetings as this act. Much of this feeling is the
result of morbid sympathy on the one hand and prejudice on the other. The Western Reserve district is happy, but they have few subjects to be affected....The colored population reside from choice in other localities and among a people with whose habits and prejudices they are familiar....In the southern part of the State where the colored population most abounds they will probably keep in force some of these laws that have been repealed by this act, especially the one denying them the right to bear witness against a white....It is a fact notorious to all who are willing to see that nothing (as a general rule) can be more fatal to the merits of a case than an effort to sanction it by this description of testimony. This may be called prejudice. Be it so....It is the prejudice of education—ingrain in the very constitution of society, and cannot be eradicated by the mere parliamentary forms and enactments."82

The Ohio Statesman, March 5, 1849, said: "The Democratic party has always stood opposed to placing the black man on an equality with the white....We are decidedly opposed to repeal at this time."83

The Ohio Eagle, February 15, 1849, published an account of an indignation meeting held near Lancaster together with a set of resolutions adopted at the same time. The general theme of these resolutions centered around the thought that the Legislators had played the part of a "Judas", showing themselves to be merely dishonest politicians. Among their resolutions is found the following: "We are opposed to free-soilism, abolitionism, demagogism, and negroism."84
On the other hand, the *Cleveland Herald*, a publication of the Western Reserve, in reporting the repeal said: "Some of these laws repealed have been on the statute book more than forty years, and we rejoice that even at this date the cause of Humanity and Right have triumphed over oppression and injustice. They are now wiped out never again to be reenacted in free Ohio."\(^{85}\)

The *Antislavery Bugle* commenting on the repeal said: "This is not equity, though even approximation that way; and as society now is, favors like this should be received. We do not expect speedily to see this prejudice against the colored man destroyed for it is a law written upon the human soul, 'That they whom we knowingly injure we hate', and not until we cease to oppress the colored man shall we wholly cease to hate him... But this bill, defective as it is, has many good features, and we hail its passage as an earnest of the good times coming. Far be it from us to let the remembrance of what the Legislature has not done, cause us to forget what it has done.\(^{86}\)

In conclusion, the situation of the negro in Ohio, as of the middle of the past century, may be summarized in these words. From the admittance of Ohio to statehood to the repeal of the Black Laws, the negro did not enjoy the same political rights as the white man. True these limitations were not often enforced, yet legally, they were a part of the laws of Ohio. That they were frequently used during the last twenty years of their existence has been shown. The reasons for having these laws may have been many, yet without exception it has been found that
the counties having the least number of negroes contributed the greatest number of votes to defeat or repeal any law that would place restrictions on the colored man. A factor that influenced the Legislature, and counties with a large negro population was a fear, real or apparent, that the negro, unless his liberties were curtailed, would flock to Ohio to the detriment of the general welfare of the State. Therefore many felt that Ohio had a serious negro problem; and one way to solve that problem was to restrict negro immigration to Ohio. As the antislavery feeling at the North grew this position was reversed, and the Black Laws were repealed but not without serious opposition of those who knew the negro best.
FOOTNOTES

1. U.S. Census 1800, 185, table XV.


3. Chaddock, R.E., Ohio Before 1850, 46.

4. Ibid., 45.

5. Ibid., 46.

6. Caleb Atwater, History of Ohio, 331;
   Hickok, C.T., The Negro in Ohio, 147.

7. Burnett, Notes on Northwest Territory, 332.


10. Caleb Atwater, History of Ohio, 323.

11. Ibid., 323.


   U.S. Census 1800,


15. Ibid., 22.

16. Ibid., 22.

17. Ibid., 24.


20. Ibid., 74-75.
Article VIII, Section 2. "There shall be neither slavery nor involuntary servitude in this state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of eighteen years, be held to serve any person as a servant, under pretense of indenture, or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration, received or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the state, or if made in the state, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships."

Cutler, J.P., Life and Times of Ephriam Cutler, 77

Ibid., 78

Burnett, Notes on the Northwest Territory, 348;
Chadwick, Ohio Before 1850, 86;
Bartlett, "Struggle for Statehood" in Ohio Archaeological and Historical Publications, Vol. 22, 500;
Journal of the Constitutional Convention, 1802, 24.

Laws of Ohio, 1803-04, 2:63
Journals of House and Senate, 1804.
Laws of Ohio, 1807, 5:53.
House Journal, 1807; Senate Journal, 1807.
30 House Journal, 1807.
31 Ibid., 3.
32 House Journal, 1819.
35 Laws of Ohio, 1829, 27: 35.
36 House Journal, 1829, 382.
37 House and Senate Journals, 1829;
38 Laws of Ohio, 1831, 29: 94.
39 Ibid., 442.
40 Ibid., 320.
41 House Journal, 1831.
42 Ibid., 450.
44 House and Senate Journals, 1838.
45 Laws of Ohio, 1839, 37: 38.
46 House Journal, 1839.
47 Miami, Mercer, Darke, Medina, Portage, and Cuyhaga counties.
49 Ibid., 81.
50 House and Senate Journal, 1848.
51 The Law of 1807 provided that a bond of $500. with two or
   more sureties guaranteeing good behavior and support of the
   negro.
52 Proceedings of the Ohio Antislavery Convention, 1835, 2.
53 Ibid., 2.
Ibid., 2.
Ohio State Journal, Feb. 1, 1832.
1831, Ohio Reports, IV, 353.
Ibid., 353.
1843, "Lane vs. Baker et al." Ohio Reports, XII, 238.
Henry Howe, Historical Collections of Ohio, 384, et seq.
The writer has visited the place of the attempted capture.
The older citizens relate the narrative with much pride.
Few communities can boast of a similar incident where a negro's freedom was made possible by popular subscription.
1842, Ohio Reports XI, 387.
Proceedings of the Ohio Anti-Slavery Convention, 1835, 3.
J.H. Fairchild, Oberlin It's Origin, Progress and Results, 75.
School Reports, 1875-76, 32;
69 Journals of the House and Senate for the years mentioned.
70 House and Senate Journals, 1836, 1837.
71 House and Senate Journals, 1840, 1848.
72 Hart, A.B. Salmon Portland Chase, 111.
74 Hart, A.B. Salmon Portland Chase, 113.
76 Ibid., 117.
77 House Journal, 1849.
78 Laws of Ohio, 1849, 47: 17.
79 House Journal, 1849.
80 Senate Journal, 1849.
81 Ibid., 250.
82 Ohio State Journal, Feb. 24, 1849.
83 The Ohio Statesman, March 5, 1849.
84 The Ohio Eagle, Feb. 15, 1849.
85 The Cleveland Herald, Feb. 13, 1849.
86 The Antislavery Bugle, Salem, Ohio, Feb. 16, 1849.
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