

Changing the Law; Fighting for Freedom: Racial Politics and Legal Reform in Early  
Ohio, 1803-1860

Thesis

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## Abstract

Historians of African Americans in the antebellum North have gone to great lengths to identify examples of cultural and political agency within the black community. While correct in doing so, many older studies have often taken the misguided position that free African Americans took an unwaveringly adversarial stance to northern antebellum political institutions. While it is true that black leaders often levied sharp criticism for racist policies and the politicians that supported them, they also understood that this approach had limited benefits. My thesis argues that in order to gain the political and legal concessions they desired, Ohio's African Americans worked both to gain the sympathy of public opinion, and pursued greater civil rights by working within the state's legal and political infrastructure whenever possible. Yet even as African-American leaders worked to gain greater civil and political equality in Ohio, the black community remained an arena of debate over the best strategies to pursue when challenging the dynamics of institutionalized racism.

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## **INTRODUCTION: RACE, POLITICS AND THE PUBLIC SPHERE IN NINETEENTH CENTURY OHIO**

In 1845, a group of Cincinnati's black leaders gathered at Union Baptist Church for a special meeting at which they honored Salmon P. Chase, an influential lawyer and rising political star for his defense arguments in the trial of a recent runaway slave case, but also for "other and previous services in the cause of the Oppressed, which have often marked the professional and private life of that gentleman." The occasion, highlighted by the presentation to Chase of an engraved silver pitcher by the African-American community demonstrated both his importance as an anti-slavery activist and legal advocate, as well his efforts to reform Ohio's Black Laws. In his introductory remarks, Andrew Gordon, a Cincinnati African-American activist praised Chase for "not being unmindful of the deprivation of rights endured, and the wrongs inflicted upon the free colored people of this country." In his speech accepting the silver pitcher, Chase commended the developments and improvements he had witnessed in the black community since coming to Cincinnati some twenty years prior. Still, he saw much work yet to be done, primarily by state political leaders. Chase decried the racial policies that remained in place as dangerous to the liberties of all Americans. Chase further stated that laws of oppression "tends to the overthrow of all law, by separating ... the idea of law

from the idea of right.” He concluded his indictment of the Black Laws by arguing that “the iron of oppression ... poisons, with its cankering rust, the hand of the oppressor” indicating that whites were also being corrupted by the racial prejudice of the Black Laws.<sup>1</sup>

This event demonstrated the tangible connections between the Ohio black community and the state’s political insiders. It also showed that some white anti-slavery leaders in Ohio cared deeply about the rights of African Americans in their own localities. Finally, and most importantly, the positions outlined in Chase’s speech accurately reflected the arguments made by African Americans seeking legal reform in Ohio. While the Black Laws still remained on the books for another four years, this event underscored the very real influence the black community had on policymakers. In the aftermath of the 1849 repeal of three of the most burdensome of the Black Laws, Ohio African Americans again gathered at Cincinnati’s Union Baptist Church. On this occasion, they toasted Free Soil Party leaders Norton S. Townshend, John F. Morse, and others who had been instrumental in bringing about reform to Ohio’s racial policies.<sup>2</sup>

These instances clearly demonstrate the high esteem which African Americans held for white allies who possessed access to Ohio’s central political institutions. Yet as central as Chase and his allies were to the repeal of some of the legal limits placed on Ohio’s black population, the institutional work of these political leaders was but one of many arenas in which Ohio African Americans and their allies confronted legalized racial inequality. In terms of developing responses to the state’s policies and overall attitudes

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<sup>1</sup> “Address and Reply on the Presentation of a Testimonial, to S.P. Chase, By the Colored People of Cincinnati,” Samuel J. May Anti-Slavery Collection (SJMA-SC), Cornell University.

<sup>2</sup> Stephen Middleton, *The Black Laws: Race and the Legal Process in Early Ohio*, (Athens. OH: Ohio University Press, 2005) 154.



toward African Americans, the internal dynamics of the black community was central to developing protest and resistance. African-American leaders realized opportunities where they saw them, and frequently used their own avenues, as well as those of committed antislavery leaders, to appeal to Ohioans' senses of humanity and justice. The development of this message and the means through which black activists expressed their grievances are central to understanding the broader legal and political dynamics of Ohio's racial landscape.

Given the conditions free blacks faced not only in Ohio, but throughout the antebellum North, it should come as no surprise that historians have highlighted black critiques of American political and civic notions of race and their legal and social manifestations. In Ohio prior to 1849, African Americans were denied the right to vote and for a brief period, petition. They lacked equal funding for the education of their children, were not barred from testifying in court cases where whites were involved and could not serve on juries. They were subject to paying a five hundred dollar bond upon their arrival in the state as a guarantee they would not become a burden to the state, could not receive the benefits of public services, and could not be elected or appointed to public office. Even after a partial repeal of some of these policies in 1849, many blacks still could not vote, hold public office, serve on juries, or receive public services. This bleak history has led many historians to take an understandably pessimistic view of the relationship between African Americans and the political infrastructure of the antebellum North. And yet, this position fails to fully account for why most blacks actively worked within Ohio's public and political spheres even as whites attempted to exclude them from the state's civic realm at every possible turn.

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The historiography of race in the antebellum North can be divided into two major periods: an early generation, dominated by the work of Leon Litwack and Benjamin Quarles, and a more recent generation, shaped by historians who have agreed with or diverged from these authors by varying degrees. Leon Litwack's *North of Slavery* (1961) laid the groundwork for the modern study of free African Americans in the North. In many ways, his work remains the standard against which all subsequent studies are measured. Much of Litwack's work revealed the importance of black abolitionists and reformers and their efforts at obtaining political representation. Attacking the commonly held view that free blacks did not experience considerable civil discrimination, *North of Slavery* contends that free blacks enjoyed very few social or political rights in the antebellum North. As such, it might be fair to suggest that Litwack comes off as nominally separatist in his depiction of northern free blacks. While they sought the benefits and responsibilities of full American citizenship, many were disinclined to rely on whites to secure these advantages. Moreover, because whites refused to accept African Americans into civil society, they ultimately forced black political positions to take a more extreme position. In his *Black Abolitionists* (1969) Quarles challenged Litwack's work by presenting a more integrationist depiction of free black society. Moreover, Quarles deals more directly than Litwack with elements (print culture and public celebrations) that subsequent historians continue to associate with the public sphere and political culture. Unlike Litwack, however, Quarles focused most of his attention toward African Americans within the abolitionist movement, rather than their role in shaping northern political culture in general. As such, Quarles offers a tantalizing yet incomplete

answer to Litwack's foundational work. Together, Litwack and Quarles's major contribution shows that African Americans possessed and wielded agency to influence their political status in early America. Moreover, these studies laid the groundwork for subsequent historians to examine the social and political lives of free blacks in the antebellum North.<sup>3</sup>

Despite the merits of these older studies, they tended to present an assimilationist versus integrationist dichotomy with respect to the free black community of the North. While useful in some ways, this approach did not fully appreciate the internal dynamics of African American institutions and their political attitudes. Recently, however, historians have begun to rethink the ways in which African Americans developed political strategies that challenged dominant notions of race during the early republic and antebellum period. James and Lois Horton's *In Hope of Liberty* (1997) presents a nuanced portrait of early American racial politics. The authors demonstrate the development of African-American political awareness in response to an increasingly hostile white racial environment within the early republic. Yet Horton and Horton point out that African Americans did not take political discrimination lying down. As blacks developed their own print culture, they also formed organizations which dealt with questions of public participation. Both of these forums, print and association, "served as a national arena for discussing and debating important issues, and facilitated the implementation of other strategies for working against slavery and promoting racial

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<sup>3</sup> Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790-1860*, (Chicago: University of Chicago Press, 1961); Benjamin Quarles, *Black Abolitionists*, (New York: Oxford University Press, 1969).

justice.”<sup>4</sup> In this light, Horton and Horton’s emphasis on black print culture and the organizing movement suggests that African Americans by the antebellum era had developed the community structures which could facilitate their inclusion within the formally recognized sphere of American politics.

In his important study on the development of early American national identity, *In the Midst of Perpetual Fetes* (1997) historian David Waldstreicher also deals with how Americans, black and white, understood the racial dynamics of the young republic. Waldstreicher suggests that African Americans developed their own separate national identity in the hope they might be considered worthy of civic and political recognition. By highlighting their humanity through direct links to African heritage, free blacks developed a legitimate form of alternative nationalism. According to Waldstreicher, asserting black nationalism allowed African Americans to make the seemingly logical argument that they also deserved to be inheritors of the principles espoused in the Declaration of Independence. Waldstreicher further suggests that African Americans’ ability to appropriate a national identity problematized the white supremacist view of early American nationalism. Moreover, their access to, and participation in abolitionist organizations suggests that free blacks were not only able to critique, but also participate in American political culture.<sup>5</sup> Thus, African Americans undermined the objective of creating a racially homogenous civil society through their presence and activism in the public sphere. Still, both White and Waldstreicher’s depictions of African Americans portrays them in a passive role, hoping for white benevolence and recognition. While

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<sup>4</sup> James Oliver Horton and Lois E. Horton, *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1700-1860* (New York: Oxford University Press, 1997), 207-208, 240-241.

<sup>5</sup> David Waldstreicher, *In the Midst of Perpetual Fetes: The Making of American Nationalism, 1776-1820* (Chapel Hill: The University of North Carolina Press, 1997), 322-323, 332-333, 347.

both are aware of African-American agency, in each case, it comes off as a somewhat muted phenomenon.

Joanna Brooks' article "The Early American Public Sphere and the Emergence of a Black Print Counterpublic" (2005) further addresses the ways in which free black political leaders responded to the racist conditions of early America. Brooks demonstrates how African Americans appropriated print culture to service their own social, cultural, and to a lesser extent, political needs. Yet while previous historians have addressed the ways in which African Americans engaged in a wider public challenge of political white supremacy, Brooks suggests that the tools of political culture could also be self-serving. Suggesting that the black counterpublic primarily served the internal needs of the free black community, Brooks' depiction of an African-American public sphere seems to be created by blacks and for blacks only. Indeed, she argues "the black counterpublic emerges through black-founded, black-governed institutional venues that permit black collectives to establish a more secure, self-possessed, self-determined presence in a generally hostile and dangerous public sphere."<sup>6</sup> While Brooks undoubtedly sees these black controlled organizations as fundamentally undergirding the African-American place within the public sphere, it is quite possible to read her argument in an alternative light. If collective organization and print culture were structures created by and for blacks only, they could also symbolize a sign of withdrawal and separatism. Brooks' analysis undermines her larger position that free blacks in the early republic challenged white authority in an overtly public context. After all, if blacks created institutions and print

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<sup>6</sup> Joanna Brooks, "The Early American Public Sphere and the Emergence of a Black Print Counterpublic," *William and Mary Quarterly*, 3d ser. 62 (2005), 67-92.

culture exclusively for their own consumption, one wonders if such structures even fit within the wider cultural-political landscape of early America. Ultimately, Horton, Horton, and Brooks seem to imply that African Americans were having the conversations about their place in society amongst themselves, rather than with those in positions of public power.

During the past decade, the interest in the political strategies of the Northern free black community has expanded even further. In another important study, Patrick Rael, in *Black Identity and Black Protest in the Antebellum North* (2002), offers a somewhat different take on northern African-American activism in his interpretation of how black leaders “constructed black identity through self-conscious acts of public political speech.” Yet the activism Rael presents often takes on a less adversarial tone toward early American cultural politics. Instead of openly criticizing the fundamental beliefs behind antebellum American society, Rael argues that black leaders used the public sphere as a means of appealing to whites to live up to the professed ideals of the Republic. “The strategy of attempting to change white minds” Rael argues “dictated that African Americans conform to certain basic [middle class] values in American society.”<sup>7</sup> Rael’s analysis suggests that demonstrating their commitment to “mainstream” American values appeared to many black activists as the best opportunity to gain greater equality in a racially hostile society.

The most important aspect of the recent historiography of the black community in the antebellum North has been the ways in which scholars have discussed the internal

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<sup>7</sup> Patrick Rael, *Black Identity and Black Protest in the Antebellum North* (Chapel Hill: University of North Carolina Press, 2002), 1-11, 45, 56-57.

debates and strategies that African-American leaders developed. In her study *In the Shadow of Slavery* (2003), historian Leslie M. Harris points out that black attitudes toward gaining equality divided largely along class lines. In particular, Harris argues that the New York Constitution of 1821, and its clause denying blacks the right to vote prompted middle class African Americans to engage in a campaign of moral uplift that deviated from older black traditions such as parades and public celebrations.<sup>8</sup> In so doing, middle-class black New Yorkers were making a conscious choice: if African American hoped to gain equal standing, they would do so by demonstrating their capacity to act as responsible citizens.

Craig Wilder presents a somewhat different take on black activism in his own study of New York, *In the Company of Black Men* (2001). Wilder identifies the concept of nationalism as central to the development African American community institutions and how they engaged the white community. For Wilder, nationalism presents one of the complex ways in which blacks expressed group autonomy. Although black leaders turned away from overtly African expressions of identity, Wilder argues that this was a conscious political decision within the black community that was fully compatible with its own sense of nationalism. For Wilder, nationalism amounted not so much to a sense of African identity, but rather the black community's ability to act independently and make decisions for itself. In so doing, he argues that blacks could make a stronger case for recognition of their own political liberties as well.<sup>9</sup>

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<sup>8</sup> Leslie M. Harris, *In the Shadow of Slavery: African Americans in New York City, 1626-1863* (Chicago: University of Chicago Press, 2003), 119-123.

<sup>9</sup> Craig Steven Wilder, *In the Company of Black Men: The African Influence on African American Culture in New York City* (New York: NYU Press, 2001), 158-159.

In another recent and important study on New York City, historian Leslie Alexander examines the ways in which black leaders worked to develop a coherent political strategy and sense of community. Alexander argues that through the early national period the black community embraced its African heritage as central to the group's civic identity. Nevertheless, in the face of growing white hostility, African Americans shifted their efforts to gaining the support of white leaders through moral uplift and national patriotism as means of obtaining equality. Even so, this strategy still faced challenges, and in particular failed to overcome external racism and internal conflicts among different groups within the broader anti-slavery community. In response to these setbacks, Alexander argues New York's black community "rallied their forces and forged a unified front. ...To build a viable Black nation and force American society to live up to its principles."<sup>10</sup>

Finally, Stephen Middleton's *The Black Laws* (2005) presents a dynamic analysis of the ways in which Ohio's political institutions engaged the question of racial policy, often to the detriment of the state's black community and their hopes for equality in a free state. Middleton effectively demonstrates the powerful role of political activism in bringing about legislative reform. Still, Middleton's story is primarily a top-down political history, and he focuses considerably more attention on the roles played by Ohio's white politicians than he does on African Americans in shaping the state's racial policies. While there is nothing wrong with this approach, my own work seeks to build on Middleton's analysis by emphasizing the ways in which African Americans

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<sup>10</sup> Leslie M. Alexander, *African or American?: Black Identity and Political Activism in New York City* (Urbana-Champaign: University of Illinois Press, 2008), xiii, xvii, xx.



themselves actively participated within the political process and attempted to renegotiate the racial policies of antebellum Ohio in their favor.<sup>11</sup>

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My thesis is divided into three sections, each corresponding with three distinct periods of early and antebellum Ohio's racial and political history. The first section deals with two major themes: the social and demographic development of the African-American community in Ohio prior to 1860 and the evolving attempts, both politically and within the broader society, to exclude African Americans from inhabiting Ohio and participating within the state's civic theater prior to 1841. The second section presents an analysis of the development of African-American political culture and to a lesser degree to role of a select group of sympathetic white allies during the 1840s to overturn the legal and political obstacles that had been established between 1802 and 1841. Though this movement came to partial fruition in 1849 with the repeal of some of Ohio's so-called Black Laws, full political rights still eluded the state's African Americans. During the 1850s, the chronological setting for the third section of this project, African Americans fought stridently to gain the right to vote. While this movement at best yielded mixed results, national events also shaped Ohio, allowing African Americans to participate actively within the growth of anti-slavery and anti-slave power politics.

In my first chapter, I discuss two major themes relating to African American history in early and antebellum Ohio. First, I present a discussion of the growth of the black community in Ohio. The ways in which whites responded to the development of Ohio's black population, particularly from the perspective of political institutions as well

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<sup>11</sup> Middleton, *The Black Laws*.

as the broader population, serves as another central element to this story. Whether motivated by irrational fears or simple white supremacy, whites in both the political and public arenas proved highly unwelcoming to African-Americans. From the state's founding in 1803 and for several decades thereafter, Ohio's legislature repeatedly passed laws designed to discourage blacks from entering the state and restrict the rights of African American residents. The white public also took an active role in attempting to intimidate Ohio blacks, actively supporting the American Colonization Society and engaging in violent race riots. Despite this hostility, Ohio's black community, both in terms of population and its institutional infrastructure, grew throughout the early and mid nineteenth century. Even though their presence elicited a negative reaction from the majority of white Ohioans, policies designed against free blacks ultimately failed to curb the growth of the African-American community.

My second chapter examines Ohio's racial and political history during the 1840s. While Ohio's racial climate had experienced its bleakest moments around 1839 or 1840, already, a movement had begun to overturn the state's Black Laws. Led by African-American community leaders and supported by progressive white activists, this movement relied heavily on using public pressure and private relationships with sympathetic white political insiders. Together these groups fashioned a strategy that exposed the blatant inconsistencies within the laws against African Americans. The battle to overturn the Black Laws took place in several arenas. On one front, black and sympathetic white abolitionist print culture sought to convince the general public of the obvious contradictions of Ohio's Black Laws and the very real problems they posed for all Ohioans, regardless of color. African Americans also used access to sympathetic

political insiders and, when possible, Ohio's lawmaking political institutions. In addition, African Americans seized upon a series of favorable court decisions which challenged the legitimacy of the Black Laws. All of these actions were supported by sympathetic groups within Ohio's print culture, black and white, and the politically active African-American convention movement that developed in the 1840s. These efforts combined with major shifts in Ohio's political landscape and led to major legislation in 1849, which overturned the bond required of African Americans moving to Ohio, granted blacks the right to testify in court, and gave blacks equal public funding for educational purposes.

The final chapter analyzes the lingering legal and political problems Ohio blacks faced between 1850 and 1860. Although some restrictions had been lifted, African Americans still could not vote and were confronted by the threat of slavery. Despite these challenges, African Americans in Ohio became important players in the state's political climate, influencing party politics in ways unimaginable just a few decades prior. Chapter three also discusses the role of race in Ohio in a national context. Ohio place on the front lines during the fugitive slave crisis of the 1850s, practically compelled state politicians to weigh in on the matter, as well as issues pertaining to Ohio's own population of free blacks. Although one would be hard pressed to find even progressive politicians who supported full racial equality, Ohio's official response to the crisis brought about small, but noteworthy benefits for African Americans.

I consider this study a combination of the history of Ohio's political institutions and the social history of race in the public sphere, the sources I have used vary considerably. State legislative records and constitutional convention reports served as a main component in every chapter, particularly where changes in legislation were

considered. State court records that grappled with the legal questions surrounding race played a major role, particularly in Chapter 2. For the growth and development of the black community, I rely heavily on census data as well as records from black state conventions and social organizations, primarily in the first chapter. Print culture's central place within the public sphere and in particular newspapers, petitions, and speeches played a major role in the second chapter. Unfortunately, private journals and correspondence among African Americans and between them and their white allies proved illusive. Still, several state and national black leaders reflected on their experiences in Ohio and shared this information in their correspondence and memoirs. In addition, the papers of Salmon P. Chase offer a glimpse of the effort to repeal the Black Laws from the perspective of a prominent political insider sympathetic to the cause.

In many ways, I seek to combine as well as expand upon the work of scholars of the black community like Alexander, Rael, and Wilder with the legal analysis Stephen Middleton. Middleton, examines the role of institutional politics and the law in shaping racial attitudes. While not insensitive to the influence of African Americans in antebellum Ohio, he is primarily concerned with the shaping of racial policy from the top down. Although often marginalized, African Americans clearly injected their positions within the scope of public and political debates. Try as they might, whites could never fully prevent black activists from demanding greater civic and political representation. Although tangible progress on this front proceeded slowly at best, and at worst regressed on numerous occasions, black Ohioans and strong abolitionist allies repeatedly challenged the state's racial policies, forcing policymakers to debate their validity. While only a few of these debates led to actual policy changes, they nonetheless placed Ohio's

official racial practices under intense scrutiny. Finally, with the emergence of progressive Free Soil and Republican leaders in the late 1840s and 1850s, political sentiment had shifted just enough to allow African Americans limited protection of civil and political rights. Though incomplete, these achievements marked an important change in Ohio politics and public life.

Ultimately I argue that while black activists and white abolitionists expressed a shared commitment to overturn the legal barriers to African-American freedoms in Ohio, their overall objectives differed in an important way. African Americans recognized that in order to achieve the full equality for which they hoped, legal reforms would only be one step in a much larger process. Moreover, I am also interested in how white responses, both friendly and hostile, influenced the public debate over race and policy in the antebellum North. This study presents an analysis of the strategies and tactics deployed by Ohio's African-American political activists, working alongside sympathetic abolitionists, to bring about tangible reforms in the civic and political landscape. Ohio's African-American community developed a style of activism that evolved throughout the antebellum period. While their first responses often addressed immediate concerns by establishing and working within their own institutions, black leaders soon recognized the importance of recruiting sympathetic white supporters and directly engaging Ohio's political infrastructure. Though successes were rare and usually incomplete, activists for racial justice waged a consistent campaign that skillfully blended rhetorical idealism and pragmatic opportunism that was well suited to capitalize on the contested racial policy debates of the antebellum era.

## **CHAPTER ONE: OHIO'S BLACK COMMUNITY AND THE STATE'S RACIAL CLIMATE, 1802-1839**

Between 1787 and 1860, Ohio's black community experienced a rapid transformation, growing from a barely detectable minority to one of the largest free African-American populations in the North. Nevertheless, the legal and political limits on the rights of African Americans was a powerful problem in Ohio politics throughout the first half of the nineteenth century. Moreover, as the African-American population grew, Ohio's racial policies took on an increasingly restrictive nature. Ohio's early political leaders attempted to create a legal infrastructure that capitalized on the racial fears of the state's white citizens. The restrictions placed on African Americans in Ohio, often collectively referred to as the Black Laws, sought to intimidate blacks from entering the state and prevented those who were already there from participating in civic and political life. These policies largely reflected the attitudes of the wider civic and political culture. During the early nineteenth century, many elite white Ohioans actively supported the African colonization movement in an effort to persuade free blacks to voluntarily leave the United States. Working class whites, fearing potential competition over labor had their own method of attempting to exclude African Americans from Ohio, relying on mob

violence and intimidation. Whites based these attitudes on racism and irrational fears that the presence of African Americans would threaten the stability of Ohio society.

Yet these policies and strategies failed to quell the influx of blacks to the state, nor did they prevent the emergence of organized black community institutions. Prior to 1840, Ohio blacks focused their political energies on developing and strengthening their own community from within. Indeed, forming and sustaining the educational, religious, and economic institutions that were fundamental to black life was an important precursor to the political activism that would characterize the 1840s and 1850s.

### **Population and Demographics of Ohio's African-American Community, 1802-1860**

Ohio's black population during the antebellum era never composed a large percentage of the whole. Even by 1860, when the number of African Americans in Ohio reached their highest prior to the Civil War, they composed less than 2 percent of the total population. Nevertheless, throughout the first half of the nineteenth century, the number of free blacks in Ohio grew considerably. Although exact statistics on the early black population are unclear, the territorial Northwest contained approximately three hundred African Americans just prior to Ohio's organization as a state.<sup>1</sup> Because the U.S. census only began to categorize racial background after 1820, figures indicating the black population's growth in early Ohio are elusive. Nevertheless, the pioneering African American historian Carter G. Woodson composed a study on black Cincinnati that places

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<sup>1</sup> Historians of early Ohio list the total black population of the Northwest Territory for 1800 at 337, but fail to identify their precise distribution. Unfortunately, they do not identify their sources. See: R. Douglas Hurt, *The Ohio Frontier: Crucible of the Old Northwest, 1720-1830* (Bloomington: Indiana University Press, 1996), 387; George W. Knepper, *Ohio and Its People* (Kent, OH: Kent State University Press, 2003), 196-199.

the Ohio black population at 337 in 1800 and 1,890 in 1810.<sup>2</sup> By 1820, when the census first calculated the racial breakdown of the population, Ohio's blacks numbered 4,723, out of Ohio's total population of 581,434 most heavily concentrated in the southern counties of Hamilton (Cincinnati), Ross (Chillicothe), and Brown (east of Cincinnati), respectively.<sup>3</sup>

The early concentration of Ohio's black population in the southern counties largely reflected the fact that many had come from adjoining states to the south and east. Although the 1850 and 1860 census data list only whether individuals were born in or out of a particular state, other scholars have addressed this issue with somewhat greater detail. Carter Woodson's study of Cincinnati blacks accounts for the growth of the population by suggesting most were born free or emancipated in the South, and came North to escape hostile conditions.<sup>4</sup> A report on Ohio's African Americans produced at the 1835 Ohio State Anti-Slavery Convention suggests that most of the state's blacks were former slaves who had bought their freedom.<sup>5</sup> In particular, the majority of Ohio blacks appear to have come from Virginia. During Ohio's early decades, many of the state's political leaders came from the Old Dominion, bringing their slaves, and freeing them upon arrival. Moreover, Ohio also appealed to the limited number of racially

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<sup>2</sup> C. G. Woodson, "The Negroes of Cincinnati Prior to the Civil War," *The Journal of Negro History* 1 (1916): 4.

<sup>3</sup> 1820 United States Census, Historical Census Browser (HCB); see also Michael Mangin, "Freemen in Theory: Race, Society, and Politics in Ross County, Ohio, 1796-1850" (PhD diss., San Diego State University, 2002), 24-25. Admittedly, the census data is at best incomplete, due to its tendency of undercounting minority groups and the potential reluctance among some to self-identify as African Americans.

<sup>4</sup> Woodson, "The Free Negroes of Cincinnati", 4.

<sup>5</sup> "Report on the Condition of the People of Color in the State of Ohio," From the Proceedings of the Ohio State Anti-Slavery Convention, 22-24 April, 1835.



benevolent-minded Southerners, including John Randolph of Virginia, who chose to emancipate their slaves and resettle them in the North.<sup>6</sup>

Between 1820 and 1860, Ohio's black population grew considerably. By 1830, for example, the population had doubled from the previous census, to just over 9,500, even after a major exodus of Cincinnati's African Americans, with Ohio's overall population numbering 937,903. Although the distribution patterns remained similar to 1820, growth was widespread throughout the state. While 43 of Ohio's 59 counties (72%) in 1820 counted less than 100 free black residents, by the following decade, 48 of the state's 73 counties (66%) contained fewer than 100 blacks, a small but important shift, considering the increased number of counties in the state. Moreover, several contained between 76 and 99 black residents, and still more had between 50 and 75, both increases from the prior census. By 1840, the black population jumped again to 17,342, and increased to 25,279 in 1850, with total state populations of 1,519,467 and 1,980,329 respectively. By 1860, Ohio blacks numbered 36,673 out of a total 2,339,511 persons. In terms of national context, Ohio's free black population ranked as the fifth largest in the Union, and third in the North behind only New York and Pennsylvania. Moreover, while the early census data showed the heaviest concentrations of African Americans in the counties surrounding Cincinnati, by the 1860 census, several counties displayed considerable numbers of free blacks. Besides those immediately surrounding Cincinnati, 15 counties had black populations of greater than 750 persons by 1860, with all areas

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<sup>6</sup> Knepper, 198.

except the sparsely populated northwest region of the state represented.<sup>7</sup> This greater dispersal likely arose from several factors, including natural increase, economic opportunities, and escalating numbers of fugitive slaves. Furthermore, while the southern and central counties still dominated in terms of the black population, indicating an influx of fugitive slaves, a small but growing number of African Americans were found in Ohio's northeast corner, a region known for both abolitionist politics and somewhat more hospitable racial attitudes.

Table 1: Ohio Regional Black Population

Census Year	Southeast	Southwest	Central	Northeast	Northwest
1830	6	8	2	1	5
1840	7	11	3	1	4
1850	7	10	3	1	3
1860	7	14	3	2	5

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Breakdown of black population centers (by county) that represent a percentage greater than the state-wide average.

While the population distribution in Ohio was increasingly dispersed, other patterns were also apparent. Ohio's free black population was remarkably young, although this attribute was also evident among the white population. In 1850, for example, 55% of the state's African Americans were under the age of 20. Among whites, approximately 50% were under the age of 20. Although the age demographics were

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<sup>7</sup> 1830 US Census, 1840 Census, 1850 Census, 1860 Census, HCB; for 1830, see also Woodson, *Free Negro Heads of Families in the United States in 1830* (Washington: Association for the Study of Negro Life and History), 1925. 123-130.

similar, literacy rates were not. In the 1850 census, for example, just over 3% of the total adult population, regardless of race in Ohio was listed as illiterate. When those figures are broken down by race, however, the educational disparities between black and white adults stand out. Again citing the 1850 census data, approximately 20% of African Americans were listed as illiterate, compared to only 3% for whites.<sup>8</sup> Despite such a wide margin, however, this data might be interpreted in two different ways. On the one hand, these percentages indicate that blacks fared quite poorly when compared to whites. Still, there is at least some silver lining to this disparity. Given the circumstances they faced, it could be argued that black literacy was remarkably high, as many of Ohio's African Americans had either grown up as slaves in the South or had been denied access to public education in Ohio.

Just as the population demographics of Ohio blacks varied considerably during the antebellum era, so too did the occupations of the state's African Americans. The 1835 Ohio State Anti-Slavery Convention reported that most blacks were uneducated and, as such, many "become day laborers, barbers, and menial servants."<sup>9</sup> Nevertheless, Ohio blacks found employment in other fields. John Malvin, a Cleveland resident with Virginia origins, for example, became a successful canal boat captain. David Jenkins, of Columbus, and William Howard Day, of Cleveland became editors of Ohio's two antebellum African-American newspapers, *The Palladium of Liberty*, and *The Alien American*, respectively. Moreover, a number of blacks who worked as barbers or in

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<sup>8</sup> 1850 US Census, HCB. Unfortunately, the census does not contain literacy rates prior to 1850.

<sup>9</sup> "Report on the Condition of the People of Color in the State of Ohio," 1835.

skilled trades became prominent leaders within the Ohio African-American community.<sup>10</sup> Evidence further suggests that the Ohio State Anti-Slavery Convention's 1835 report focused heavily on Cincinnati, and thereby overlooked the growing numbers of African Americans who lived in rural areas. The emancipated slaves of John Randolph, for example, attempted to establish a farming community in rural Mercer County (Southwest Ohio), but struggled, not from a lack "industry," but rather, as one newspaper reported, "in consequence to the mobbish spirit exhibited by the whites among whom they proposed to settle."<sup>11</sup> As the aforementioned census materials show, African Americans in Ohio, in their place of residence, their literacy rates, and their labor pursuits, defied simple categorization.

### **Acts of State: Legislating Racial Policy**

The growth of the African-American population in Ohio took place contrary to the wishes of many of the state's whites, who struggled to define a policy that could simultaneously ally their racialized fears and conform to their republican ideals. During Ohio's early existence, no single legislative act fully defined the state's official policy toward African Americans. Instead, white politicians and anti-black leaders steadily established policies and practices that stripped away black Ohioans' civic and political rights. Ultimately, white Ohio's dominant position on African Americans developed into a strategy of exclusion and intimidation in their efforts to deny blacks access to the state's political institutions. Through the use of legislative action Ohio's political leaders openly

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<sup>10</sup> For a thorough list of antebellum Ohio free black leaders, their places of origin, education level, and means of employment, see William Cheek and Aimee Lee Cheek, *John Mercer Langston and the Fight for Black Freedom, 1829-1865* (Urbana: University of Illinois Press, 1989), 138-144.

<sup>11</sup> "Randolph's Negroes," *The Cleveland Herald*, 27 July, 1846.

tried to prevent blacks from entering the state and promoted attempts to remove them. Simultaneously, white politicians developed legal policies meant to deny Ohio's existing black population access to the civic and political realm. Such positions simultaneously reinforced one another in their attempts to undermine African Americans' rights and very existence in a supposedly free state.

While Ohio officially achieved statehood in 1803, the year 1787 and the passage of the anti-slavery clause of the Northwest Ordinance had an important, although complicated, influence on the state's later course of racial policy. Historians have offered strikingly different interpretations over just how the political leaders of early Ohio viewed the Ordinance. William Cochran, an early twentieth-century historian of Ohio, argued that the Ordinance and the state's 1802 Constitution were inextricably linked in their anti-slavery impulse. More recently, legal historian Paul Finkelman has countered that the Northwest Ordinance at best offered an ambiguous legacy, not only in terms of its anti-slavery implications but also for racial attitudes in general. At best, one could argue that the legacy of the anti-slavery element of the Northwest Ordinance were disputed. As Peter Onuf observes, both proponents and adversaries of slavery in territorial Ohio presented their arguments, with the anti-slavery faction ultimately carrying the day.<sup>12</sup>

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<sup>12</sup> A number of studies have dealt with the racial and political implications of the Northwest Ordinance in territorial Ohio. See For example Andrew R.L. Cayton, *The Frontier Republic: Ideology and Politics in the Ohio Country, 1780-1825* (Kent: Kent State University Press, 1986); William Cochran, *The Western Reserve and the Fugitive Slave Law: A Prelude to the Civil War* (Cleveland: The Western Reserve Historical Society, 1920); Paul Finkelman, "Slavery and the Northwest Ordinance: A Study in Ambiguity," *Journal of the Early Republic*, 6 (1986): 343-370; Ellen Eslinger, "The Evolution of Racial Politics in Early Ohio," in *The Center of a Great Empire: The Ohio Country in the Early American Republic*, ed. Andrew R.L. Cayton and Stuart D. Hobbs (Athens, OH: Ohio University Press, 2005), pp. 81-104; Peter S. Onuf, *Statehood and Union: A History of The Northwest Ordinance*, Bloomington: Indiana University Press, 1987.

Despite the contested meaning of the Northwest Ordinance, some antebellum abolitionists attempted to portray Ohio's territorial period as a time of relative racial equality. In a series of stories on early Ohio, Cincinnati's abolitionist newspaper *The Philanthropist*, asserted that during Ohio's territorial period, race often was ignored as a political determinant. Indeed, the paper argued, under the terms of the Northwest Ordinance, all inhabitants "were put on terms of entire equality, as to *political rights*." Moreover, *The Philanthropist* asserted that when Ohio began the process of becoming a state in 1802, the question of race was absent from consideration in determining representation at the state's first Constitutional Convention.<sup>13</sup> A subsequent article even cited a somewhat dubiously sounding instance in which Andrew Jackson commented approvingly when introduced to an African American who had voted in territorial Ohio, stating "that was as it *should be* (italics added for emphasis)."<sup>14</sup> While there is no way of verifying the accuracy of this story, it does suggest that the architects of Ohio's racial policies had somehow strayed from both the intentions of their own forebears as well as the better judgment of the nation's leading statesman.

The process of political and social disenfranchisement of African Americans began slowly, the origins of which were seen in 1802 with Ohio's organization as a state. In many ways, the first Ohio Constitutional Convention and the final document it produced lacked clarity on the questions of race and citizenship. On one hand, it defined voting rights in clear racial terms, declaring that "all white male inhabitants above the age of twenty-one years, having resided in the State one year next preceding the election, and

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<sup>13</sup> "The Constitution of Ohio and Slavery" *The Philanthropist*, 28 October, 1836.

<sup>14</sup> "The Constitution of Ohio and Slavery, No. 2" *The Philanthropist*, 25 November, 1836.

who have paid or are charged with a State or county tax, shall enjoy the right of an elector.” Nevertheless, in keeping with the Northwest Ordinance, the Ohio Constitution of 1802 made slavery illegal and limited indentures of African Americans to one year.<sup>15</sup> Despite the constitution’s statements on suffrage and slavery, however, it left considerable ambiguity over the civic position of African Americans in Ohio, as it failed to clarify what rights or privileges to which blacks would or would not be allowed to enjoy.

If the Constitution of 1802 appeared vague regarding race and citizenship, it merely reflected the complicated debates over race that took place during Ohio’s first Constitutional Convention. On several occasions, the delegates considered what rights, if any, African Americans should enjoy. While the final constitution disenfranchised African Americans, this was by no means a foregone conclusion of the convention. In one instance, a measure to allow black males the right to vote actually passed, only to be rescinded after further debate.<sup>16</sup>

The convention delegates offered an even more equivocal stance on race in relation to civil rights and military service. In one instance, the delegates attempted to severely truncate black rights by passing a motion declaring that “no negroe or mulattoe shall ever be eligible to any office, civil or military, or give oath in any court of justice against a white person.” While this resolution initially passed by a 19 to 16 vote, upon

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<sup>15</sup> “Of Elections and Electors”, Constitution of the State of Ohio, 1802, Article IV, Section 1; “Bill of Rights” Article VIII, Section 2, <http://www.ohiohistory.org/online/doc/ohgovernment/constitution/cnst1802.html>.

<sup>16</sup> Session of 22 November, 1802, in *Journal of the Convention of the Territory of the North-West of the Ohio*, (Chillicothe, OH: From the Press of N. Willis, Printer to the Convention), 30, 37. The convention’s decision to deny African Americans the right to vote, after previously granting it won the day as a result of a tiebreaking vote by the president of the convention, Edward Tiffin.

reconsideration, the delegates struck it out. In the same aforementioned section, which would have denied black Ohioans the rights to work as military or civil servants and testify against whites in court, the delegates offered a provision that stated “all negroes and mulattoes ... shall be entitled to all the privileges of citizens of this state, not excepted by this constitution.”<sup>17</sup> Thus, with the exception of the right to vote, African Americans were initially (and seemingly by default) afforded many of the same rights and privileges as white citizens of Ohio under the 1802 Constitution.

Despite the Constitutional Convention’s ambiguity on the question of race and citizenship, the state’s political leaders spared little time in attempting to exclude African Americans from Ohio. The first of the Black Laws, passed in 1804, required that newly arrived blacks present certificates of freedom, register with local officials and levied fines for those who employed African Americans who failed to meet these requirements. More stringent was the bond law of 1807, which, in addition to the provisions of 1804, required incoming African Americans to post a sum of five hundred dollars “conditioned for the good behavior of such negro or mulatto, and moreover, to pay for the support of such person, in case he, she, or they should thereafter be ... unable to support themselves.”<sup>18</sup> An impressive sum for anyone in the early nineteenth century regardless of race, this particular statute was aimed at keeping Ohio as lily white as possible. Moreover, it clearly emphasized the fear that blacks would become a burden if allowed to enter the state unregulated.

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<sup>17</sup> Ibid, 32, 37.

<sup>18</sup> “An Act to Regulate Black and Mulatto Persons,” Approved January 5, 1804; “An Act to Amend the Last Named Act ‘An Act to Regulate Black and Mulatto Persons,’” Approved January 25, 1807, in, *The Black Laws in the Old Northwest: A Documentary History*, ed. Stephen Middleton (Westport, CT: Greenwood Press, 1992), 15-17.



Ohio politicians reasserted their fear that the presence of blacks would threaten the state's societal stability. In an 1832 committee report on the condition of African Americans in Ohio, the legislature strongly supported further action to discourage black migration into Ohio. While the report failed to elaborate on any specific legal enhancements, it did attempt to highlight many of the supposed problems that would arise from the free black population. The most pressing concern, the committee argued, was the negative effect free blacks would have on the white population. Fearing that competition for labor and the supposed disgrace of working alongside African Americans would discourage whites from entering the state, the committee asserted that a large free black population would be disastrous to the economy. Furthermore, when whites were forced into regular contact with black laborers, they would "lose that standing and consideration in society, which is one of the strongest safeguards against vicious conduct." For confirmation of those fears, the report continued, one need only look to other states with large free black populations. Citing the recent Nat Turner revolt in Virginia and large numbers of free blacks in the Old Dominion and neighboring Maryland, they urged Ohio legislators to act quickly, lest they face similar consequences.<sup>19</sup>

To discourage the growth of Ohio's black population, political leaders attempted to make the state an unwelcome place for runaway slaves. In 1839, the legislature passed its own fugitive slave law. One of the primary justifications for this law was the lack of

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<sup>19</sup> "Ohio Legislature: Report of the Committee on the Colored Population of Ohio," *The Scioto Gazette*, 25 January, 1832. In talking about the supposed problems free blacks would potentially create for Ohio society, the committee failed to mention that "the horrid massacre during the past summer in Southampton County, Va." was, in fact, a slave insurrection. Nor did it see the necessity in pointing out that the resulting legislative debates within Virginia actually included a very serious push for emancipation. See Louis P. Masur *1831: The Year of the Eclipse* New York: Hill and Wang, 2002), 9-62.

enforcement within Ohio's judicial system for returning runaways to the South. Ohio's fugitive slave law went to great lengths to reshape the state's policies toward apprehending and prosecuting suspected fugitives. Indeed, the law put in force powerful mechanisms requiring local sheriffs and judges to pursue escaped slaves. The law also severely penalized persons who assisted runaways slaves, imposing a five hundred dollar fine and jail time of up to 60 days for anyone convicted of helping a slave escape to Ohio. The penalty for transporting fugitives from Ohio was even more severe: between 3 and 7 years imprisonment with hard labor.<sup>20</sup>

Yet the willingness to cooperate with slave-holding states went far beyond the legislature. In 1838, James Mahan, a Kentucky abolitionist, had escaped to Ohio after being accused of assisting runaway slaves in the Bluegrass State. The Kentucky governor asked his counterpart in Ohio, Joseph Vance to extradite Mahan for prosecution. Vance readily complied, setting off considerable consternation among Ohio's abolitionist community. Vance stated that it was Ohio's constitutional responsibility to assist Kentucky officials, and that failing to support the property rights of slaveholders would be an offense similar in nature to that of denying the right of petition, an ironic point, since only a year later, Ohio's legislature moved to deny that very right to the state's black population. Furthermore, Vance stated that it was essential for Ohio to respect the demands of the Kentucky officials because "it is desirable that the peace and harmony that have always existed between the people of Ohio, and the people of our sister states

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<sup>20</sup> "An Act Relating to Fugitives from Labor or Service from other States," Approved February 26, 1839, in *The Black Laws of the Old Northwest*, 111-116.

... should continue and be perpetuated.”<sup>21</sup> Vance had only to recognize the policies of a slave state to define Ohio’s own position on the issue. While the Ohio Fugitive Slave Law would be repealed in 1843, 1838 and 1839 marked perhaps the low point of the Ohio’s political stance toward African Americans.<sup>22</sup>

The framers of the Black Laws also attempted to impose harsh policies on African Americans already residing in Ohio, placing severe restrictions on the black population. The 1807 law requiring African Americans to post five hundred dollars bond also prohibited blacks from providing court testimony in cases where whites were involved. Nor was this the last time Ohio’s political leaders circumscribed blacks from entering the judicial arena. In an 1831 law, the legislature limited jury responsibilities to white males only, effectively excluding blacks from the courtroom except in cases where they were the defendants.<sup>23</sup>

Despite the legislature’s attempts to define legal rights in clear racial terms, the lines of racial discrimination were not always as sharply drawn as white politicians had intended. In the 1821 case of *Ohio vs. Elizabeth George*, the defendant, a woman who was one-fourth black, had been accused of murdering her infant. In making their case against George, prosecutors relied on the testimony of Mary Cooper, who apparently had little or no white ancestry at all. Through clever manipulation of the 1807 testimony law, George’s attorney successfully argued that the statute applied to individuals with at least fifty percent black ancestry. Conversely, her counsel also argued that because George

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<sup>21</sup> “Governor Vance” *The Philanthropist*, 11 December, 1838.

<sup>22</sup> “An Act to Repeal the Act Entitled ‘An Act Relating to Fugitives from Labor...,’” Approved January 16, 1843, in *The Black Laws of the Old Northwest*, 129.

<sup>23</sup> “An Act to Amend the Last Named Act ‘An Act to Regulate Black and Mulatto Persons,’” Approved January 25, 1807; “An Act Relating to Juries,” Approved February 9, 1831, in *Ibid*, 17, 48.

was only one-fourth black, the fully black Cooper's testimony should be disallowed. The Ohio Supreme Court agreed, rejecting evidence tendered by Cooper, thus acquitting George.<sup>24</sup> This decision and others like it informed a policy known as visible admixture. Although not formalized by the legislature until 1859, the idea behind visible admixture gave judges considerable latitude in determining how to apply the law to persons of mixed or disputed racial ancestry.<sup>25</sup> Essentially, visible admixture afforded persons of less than half black heritage greater access to Ohio's civic and political realms not available to those who did not possess white ancestry. Furthermore, the admixture policy reinforced the notion that complex realities prevented Ohio's racial laws from rigid enforcement. The very idea of race and the law established to regulate it remained open to interpretation and charges of inconsistency, something which African Americans and abolitionists later exploited in their efforts to overturn the state's black codes.

Perhaps the most severe obstruction to African-American political rights in Ohio emerged in 1839. With the growth of the anti-slavery movement in Ohio during the 1830s, the General Assembly considered petitions advocating abolition and the reform of Ohio's own restrictive policies toward African Americans. Taking a decidedly pro-southern stance, however, the 1839 Assembly, led by Democratic members John Brough and George Flood, contended that "the schemes of the Abolitionist for the pretended happiness of the slaves are ... wild, delusive, and fanatical; and have a direct tendency to destroy the harmony of the Union." In addition, the legislators stated it would be "unwise, impolitic, and inexpedient to repeal any law now in force, imposing disabilities

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<sup>24</sup> "Important Law Decision" *The Genius of Universal Emancipation*, November, 1821.

<sup>25</sup> "An Act to Prescribe the Duties of Judges of Elections in Certain Cases, and Preserve the Purity of Elections," Approved April 2, 1859; selected cases, in *The Black Laws of the Old Northwest*, 12, 147-153.

upon black or mulatto persons, thus placing them upon an equality with the whites.” Yet the Assembly went beyond its commitment to the preexisting system of legal inequality, and approved a measure which specifically defined African Americans as non-citizens, with the purpose of denying blacks the right to petition.<sup>26</sup> Apparently it was not enough to attempt to physically exclude African Americans from Ohio and deny them many of the civil rights enjoyed by whites. For the state’s racial policies to achieve their full effect, blacks must not be allowed to enter the political arena as well.

Arguably the most complicated and perhaps cumbersome of Ohio’s nineteenth-century Black Laws concerned with public education. Given the large proportion of young persons represented in Ohio’s black population, coupled with illiteracy rates of 20%, the state’s African Americans leaders recognized the need for increased educational opportunities for black children. Ohio’s racialization of school policy began to take shape with an 1829 act that made blacks ineligible from attending white public schools and declared that all property taxes (the primary source of school funding) collected from blacks be set aside for separate schools.<sup>27</sup> While such a policy may have theoretically offered black school children a degree of fairness, given the often grim financial circumstances that most African-American Ohioans faced, any separate schools that may have formed would have certainly been unequal.

Subsequent statutes further jeopardized the schooling opportunities of blacks in Ohio. This resulted from policies that gave local officials nearly unlimited authority in

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<sup>26</sup> General Assembly Proceedings, Ohio House of Representatives, Sessions of 14 and 15 January, 1839, quoted in *The Philanthropist*, 29 January, 1839; see also Middleton, *The Black Laws: Race and the Legal Practice in Early Ohio*, (Athens, OH: Ohio University Press, 2005), 100-101.

<sup>27</sup> “An Act to Provide for the Support and Better Regulation of Common Schools,” Approved February 10, 1829, in *The Black Laws of the Old Northwest*, 34.

determining who was eligible for educational benefits. Two subsequent revisions of the school funding statute, one in 1831 and another in 1838, exempted blacks from paying property taxes for educational purposes, implicitly stating that African-American children were unfit to study alongside whites. Moreover, the acts stated that in such cases where blacks had paid property taxes for educational purposes, the responsibility to refund the amount collected fell on the shoulders of local authorities. This essentially acknowledged that blacks were paying into the school fund, but effectively disregarded any responsibility to rectify this problem at the state level. While this law recognized oversights in the taxation practices of the state, an 1848 statute went so far as to bow to local racial prejudice. Though allowing blacks to form separate school districts in communities where the school aged black population numbered 20 or more, the law also made educational policy the prerogative of local whites. In locales with less than 20 African-American school children, the state allowed local whites to determine who could enjoy access to public education. In cases where whites were opposed to racially integrated schools, blacks could choose from two less than desirable options: establish and fund separate schools through their own means, or forfeit educational opportunities altogether.<sup>28</sup>

On the face of it, some of the state's policies on taxation in relation to African Americans might have appeared to offer a bit of silver lining to the African-American community. If nothing else, the statutes offered the promise of reduced taxes and self-determination among Ohio blacks in shaping their own educational fortunes.

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<sup>28</sup> "An Act for the Support and better Regulation of Common Schools and to Create permanently the Office of Superintendent," Approved March 7, 1838; "An Act to Provide for the Establishment of Common Schools for the Education of Black and Mulatto Persons...", Approved February 24, 1848, in *Ibid*, 35, 37-38.

Nevertheless, the differences between the ideal the law may have hoped to achieve and the reality which actually occurred were widely divergent. The Cincinnati abolitionist newspaper *The Philanthropist* reported in 1837 that the city's African Americans continued to pay taxes for school purposes. Moreover, despite the requirement that these funds be set aside for blacks to develop their own schools, they claimed to "never as yet, have received a single cent."<sup>29</sup> An 1837 Columbus black convention confirmed the state's failure to appropriate funds for the creation of black schools. One of its central achievements was the passage of a resolution that called for both private donors and the legislature to donate funds for the establishment of black schools.<sup>30</sup> Had the law been appropriately enforced, there would have been no need for a request. Nor were the inconsistencies of the state's educational policies lost on some members of the legislature. An 1838 Ohio Senate Report, led by Whig abolitionist Leicester King of the racially progressive Western Reserve, openly questioned the state's efforts to refund black tax contributions to the school fund, arguing that African Americans "have been compelled to contribute to the fund for the education of white children, and taxed for the support of school from which they are excluded."<sup>31</sup>

As the evidence clearly shows, Ohio's Black Laws took decades to evolve. Created in partial contradiction to the legacy of the Northwest Ordinance and the spirit of Ohio's first constitution, the Black Laws and the racist spirit behind them took on multiple manifestations within state policy. Yet those same policies were also rife with

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<sup>29</sup> "Mean and Unjust," *The Philanthropist*, 13 October, 1837.

<sup>30</sup> "Convention of Colored People," *The Philanthropist*, 17 October, 1837.

<sup>31</sup> "Report of the Select Committee of the Senate, On the Petitions of sundry Citizens, Praying the Repeal of certain Laws restricting the Rights of Persons of Color," reprinted in *The Philanthropist*, 20 March, 1838; for more on Leicester King's political career, see Middleton, *The Black Laws*, 120.

internal contradictions and inconsistencies. Even so, the Black Laws reflected the attitudes of the majority of white Ohioans. And just as Ohio's political leaders sought to restrict the civic and political capacities of African Americans, white society looked for ways of showing blacks they were unwelcome through both persuasion and force.

### **Misplaced Humanitarianism or Racial Exclusion?: Ohio's Colonization Movement**

In addition to the legal restrictions placed on Ohio African Americans, the black community faced other pressures from the state's white population. The African colonization movement, which emerged under the guise of benevolence and respectability, became a powerful force within Ohio's political culture. While the growth of the American Colonization Society in Ohio relied on the actions of political elites and persuading blacks to leave voluntarily, at its core, it shared the same spirit of racial exclusion that had informed the creation of the Black Laws.

The movement to colonize free blacks to Africa received official support in Ohio as early as 1818. As Stephen Middleton argues the colonization effort among whites attempted to combine both humanitarian and racist attitudes toward free blacks.<sup>32</sup> This amalgamation of a pretense of benevolence and white supremacy appeared in a number of legislative resolutions between the 1810s and 1850s, all of which emphasized the supposedly negative consequences arising from the presence of the free black population. While emphasizing it as a means through which to achieve gradual emancipation, the Ohio legislature's advocacy of African colonization promoted the mandatory departure of blacks irrespective of their status as free or enslaved. One 1824 Ohio General Assembly

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<sup>32</sup> Middleton, *The Black Laws*, 78.



resolution remarked in a seemingly harmless tone that “the evil of slavery is a national one,” and advocated “that the people and the states of this union ought mutually to participate in the duties and burdens of removing it.”<sup>33</sup> Yet this language bore a striking resemblance to another legislative resolution, appearing in 1828 and reprinted in the American Colonization Society’s periodical, *The African Repository and Colonial Journal*. It urged Ohio’s national representatives and senators to “induce the Government of the United States to aid the American Colonization Society ... which is so eminently calculated to advance the honour and interest of our common country.”<sup>34</sup> By linking anti-slavery with colonization the legislature could play both sides of the issue. It simultaneously avoided upsetting moderate and conservative elements within the abolitionist movement while still appeasing whites who despised the existence Ohio’s African-American population.

In addition to receiving the support of Ohio’s elected officials, the Colonization Movement also enjoyed considerable favor among the wider culture. Quite often this sentiment manifested itself within Ohio print venues. One editorial in the Cleveland *Western Intelligencer* strongly approved of the legislature’s position on colonization, declaring “we are pleased to observe ... that they are sensibly alive to the importance of Colonizing the free black people; and likewise the necessity of imposing some barrier to their constant influx,” as “their residence is becoming daily an evil of increasing magnitude.” The editorial justified the newspaper’s pro-colonizationist stance by expressing typical antebellum fears and stereotypes of African Americans. “If they were

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<sup>33</sup> Middleton, *The Black Laws*, 78-79; also “Resolution on Colonization,” Approved January 17, 1824, in *The Black Laws of the Old Northwest*, 20.

<sup>34</sup>“Resolution of the Ohio Legislature,” *The African Repository and Colonial Journal*, January, 1828.

moral, industrious, or sober...the evil would be a light one,” the *Intelligencer* argued. Instead, however, the paper typecast blacks as “an idle, intemperate, and dissolute race; alike a burden on the resources of the state and to the energies of the laboring class of citizens.”<sup>35</sup> Another editorial, appearing in Chillicothe’s *Scioto Gazette*, cited a favorable review by the state Supreme Court of the 1807 bond law for African Americans. In striking terms that highlighted the Society’s proclivity toward white supremacy, the editor wrote about free blacks that “we consider this class of people a serious evil among us.” Implying lax enforcement of the state’s policies, the editorial concluded that “this evil has been brought upon us by the whites [who failed to strictly follow the letter of the law],” and “the only remedy afforded is to colonize them (blacks) in their mother country.”<sup>36</sup> Undoubtedly, these editors hoped to capitalize on irrational white fears of undocumented black vagrants roaming about the state, wreaking havoc in their wake.

Nor was such support confined to the columns of antebellum Ohio’s newspapers. One Ohio agent of the American Colonization Society found that in the effort to establish auxiliary societies, “I have nothing to report but success—opposition I find almost invariably to give way to information.” Another agent boasted of forming “ten prosperous societies,” whose membership rolls included “four or five present members of Congress.”<sup>37</sup> At an 1833 annual meeting of the Chillicothe Colonization Society, members urged Chillicothe ministers to collect contributions for the Society from their respective congregations. Moreover, the list of officers of the Chillicothe Female

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<sup>35</sup> “Colonization Society and Free People of Colour,” *The Western Intelligencer*, 2 January, 1828.

<sup>36</sup> “Colored People in Ohio,” *The Scioto Gazette*, 22 July, 1829.

<sup>37</sup> “Extracts from Correspondents,” *The African Repository and Colonial Journal*, November, 1826.

Colonization Society included two members of the Worthington family, one of early Ohio's most important political dynasties.<sup>38</sup>

While the American Colonization Society found fertile ground among Ohio's white population, it also attempted to create a message that would appeal to the state's blacks. Shortly after its pro-colonization editorial, the *Western Intelligencer* printed "An Address of the Colonists to the Free People of Color in the U.S." which had supposedly been written by blacks in Monrovia, a settlement supported by the American Colonization Society. In the address, the black colonists attempted to counter misconceptions and present a favorable view of Africa. The account also argued that the Colonization Movement was the will of God, and rejoiced "that we were ever conducted by His providence to this shore."<sup>39</sup>

The colonization movement also attempted to use scare tactics in order to convince African Americans of the benefits of migration. Essentially, colonizationists exploited negative events as an explanation for why the United States was no haven for free blacks. *The African Repository and Colonial Journal* seized upon an incident in which a Mercer County, Ohio settlement of African Americans was attacked by neighboring whites. Using the event as proof of the merits of colonization, the Society's journal asserted "that there is, and can be no secure and permanent home for them in this country, is the truth, although perhaps an unwelcome one." The article further chided abolitionists as false friends of free African Americans, who were guilty of deceiving

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<sup>38</sup> "Chillicothe Colonization Society," *The Scioto Gazette*, 10 July, 1833.

<sup>39</sup> "An Address of the Colonists to the Free People of Color in the U.S.," *The Western Intelligencer* 30 January, 1828.

them into believing they could gain full equality in the United States.<sup>40</sup> Even though most African Americans rejected the claims of the supporters of colonization, making appeals to blacks revealed just how far some in Ohio were willing to go in extending their racial prerogatives into society. Nevertheless, it would be a mistake to suggest that such language lacked a humanitarian element. Ultimately, the colonization movement combined genuine concern for the well-being of African Americans with an opportunistic impulse to remove free blacks from Ohio society.

### **Building a Black Community**

Shortly after his arrival in Cincinnati, John Malvin, a free black man from Virginia, considered some possible solutions to racist attitudes that dominated antebellum Ohio. One alternative he entertained was migration to Canada, where conditions were far more favorable to persons of color. After a visit to Ontario in 1829, Malvin proposed the idea of purchasing land in rural areas, together with other African Americans “to live free from the trammels of unsocial and unequal laws.” Malvin thought that by migrating to Canada and developing a lifestyle of agrarian independence, free blacks might avoid the racial prejudice that permeated Ohio.<sup>41</sup> Yet when placed within the broader scope of historical context, black self-determined emigration movements emerge as an exception, rather than as a rule of the African-American community. Malvin’s endorsement of Canadian migration came in response to racial unrest in Cincinnati in 1829, during which white political and business leaders attempted to enforce Ohio’s black laws by expelling

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<sup>40</sup> “Prospects of Our Colored Population,” *The Colonial Journal and African Repository*, September, 1846.

<sup>41</sup> John Malvin, *North into Freedom*, ed. Allan Peskin (Cleveland: The Press of Case Western Reserve University, 1966), 41n.

blacks who had failed to meet residency requirement. 1829 marked a moment of crisis for Ohio African Americans, and escape from violence offered one plausible solution in the immediate aftermath of the racial unrest. In 1831, Malvin again visited Canada and made plans to purchase a farm with the intent of relocating there. Upon his return, however, Malvin's wife expressed anxiety over leaving relatives behind and the family instead chose to settle in Cleveland.<sup>42</sup> As Malvin's own case showed, relocating would have exacted serious personal costs for African Americans. Moreover, migration was only accepted by a small minority of African Americans. Thus, it did not reflect the sentiment of the overwhelming majority of Ohio blacks throughout the antebellum era.

Ohio black leaders emphasized the need for African Americans to become economically independent. In 1838, Lewis Woodson, who had organized an African-American community in southern Ohio, wrote a letter to the New York based African American newspaper *The Colored American*, in which he emphasized the need for financial self-elevation. Woodson argued that urban blacks employed in menial jobs should "immediately turn their attention to the country." While their "condition cannot be worsted; but very probably much bettered" and they could escape the racist conditions that characterized urban life. "Their children," he argued, "would be taken from the degrading drudgery and domineering of others and from their exposure to the pollutions of idleness, vice, and crime, to constant, useful and profitable employment."<sup>43</sup> Although early census data fails to take into account race when dealing with the labor pursuits of the population, given the wider dispersion of African Americans, particularly in the

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<sup>42</sup> Ibid, 49-50.

<sup>43</sup> "Lewis Woodson to Samuel E. Cornish," *The Colored American* 7 February, 1838, reprinted in. *The Black Abolitionist Papers*, ed. C. Peter Ripley, et. al. (Chapel Hill: University of North Carolina Press, 1991, 5 vols., vol. III), 256-258.

mostly rural southern counties, it does seem likely that many heeded Woodson's advice and pursued agricultural ventures.

Ohio's early black organizers also focused considerable attention on the need to provide educational opportunities to African-American children. Shortly after his consideration of with Canadian migration, John Malvin established a school in Cleveland for the benefit of black youth. Educational opportunities for black children quickly materialized into a statewide movement. In 1837, Ohio blacks held their first state convention. According to Malvin, the central purpose of this convention was the establishment of schools for black children. Although records of this particular convention seem to have been lost, Malvin reported that it yielded the establishment of several schools in Ohio's major cities.<sup>44</sup> Subsequent black state conventions revealed a strong commitment to education. One of the major outcomes was the establishment of the School Fund Institution, with the objective of raising funds and re-allocating them as needed among Ohio's black schools.<sup>45</sup> The results appear to have been mixed at best. Malvin notes that the schools he had worked to establish only survived for two years.<sup>46</sup> Nevertheless, African Americans in Ohio displayed an eagerness for education wherever it could be obtained. In a letter to female abolitionist Lydia Marie Child, former slave James R. Bradley reported that although he lacked prior training, at the mostly white Lane Theological Seminary of Cincinnati he was "situated as pleasantly and treated just as kindly ... as tho[ugh] my skin was as white as and my education was as good as that

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<sup>44</sup> Malvin, 65-66.

<sup>45</sup> "Convention of Colored People," *The Philanthropist*, 17 October, 1837.

<sup>46</sup> Malvin, 65.

of any member of the Seminary.<sup>47</sup> An 1835 report by the white Ohio Anti-Slavery Society, found that interest in education among African Americans was strong. Still, the schools that had been established suffered from frequent shortages of qualified instructors.<sup>48</sup> More importantly, the lack of access to public funding severely hampered black leaders' efforts to establish permanent schools.

Ohio's black religious community also played a key role in promoting both the pragmatic and spiritual interests of African Americans. During the 1837 meeting of Ohio's Association of the Regular Baptist Churches of Color declared its primary concern was to "support a missionary of color, and to encourage all other kindred institutions, calculated to promote the moral and religious elevation of the colored race." Much like the 1837 black state convention worked toward organizing a school fund, the Association of Regular Baptist Churches of Color dealt extensively with raising money to support traveling ministers. In addition, the Association's circular letter attempted to gather information concerning the educational opportunities available to children if its member churches, in the effort to "find out all we can about the colored people in Ohio, that we may know what needs to be done."<sup>49</sup>

Still other religious leaders and organizations offered advocacy for Ohio's black community. As a charter member of the racially mixed congregation of Cleveland's First Baptist Church, John Malvin fought against segregated seating, declaring "if I had to be

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<sup>47</sup> James R. Bradley to Lydia Marie Child, in *Black Abolitionist Papers*, 138.

<sup>48</sup> "Report on the Condition of the People of Color in the State of Ohio," From the Proceedings of the Ohio Anti-Slavery Convention, held at Putnam, on the 22d, 23d, and 24<sup>th</sup> of April, 1835, SJMA-SC.

<sup>49</sup> "Minutes of the Second Annual Association of the Regular Baptist Churches of Color in Ohio," Convened in the City of Columbus, September 8, 9, & 10, 1837, (Columbus: Cutler and Pilsbury, Printers), Microfilmed, American Baptist-Samuel Colgate Historical Library (AB-SCHL), Rochester, NY, Roll 69.

colonized, I preferred to be colonized at Liberia, rather than in the House of God.”<sup>50</sup> The Union American Anti-Slavery Baptist Association, an organization of black churches in southern Ohio, warned its members to avoid any associations with slaveholders or those sympathetic to slavery, even going so far as to expel Columbus’ Second Baptist Church from the organization for just such an offense. Moreover, the association found the church’s treatment of some of its dissenting members (perhaps related to the prior charge) to be inappropriate.<sup>51</sup> The Providence Baptist Association also provided the element of spiritual and moral support to its member churches. The Association’s circular letter of 1835 reminded its member churches in southern Ohio that “ever since the days of John the Baptist the kingdom of heaven suffered violence,” a message certainly not lost among the black community.<sup>52</sup>

Most importantly, Ohio’s African-American churches exerted a clear influence on black political organization and activism within the state. Of the nine Ohio black conventions that took place between 1844 and 1865, only one was not held at a church within the African-American community. Moreover, the structure of the convention meetings and the style of their resolutions frequently took on deeply religious connotations. The 1849 convention’s Declaration of Sentiments contained several

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<sup>50</sup> Malvin, 57. Note Malvin’s subtle rejection of colonization. By stating “*if*” he preferred to be colonized, he seems to imply that he no longer favored the option at that point.

<sup>51</sup> The Association records are unclear as to the specific nature of the Second Baptist’s treatment of the members in question. Nevertheless, as this offense is mentioned alongside the church’s violations regarding slavery, it seems at least plausible that the two charges were related. See “Minutes of the Fifth Annual Meeting of the Union American Anti-Slavery Baptist Association in Ohio,” (Columbus: Cross and Journal Printers, 1845), Microfilmed, AB-SCHL, Roll 70.

<sup>52</sup> “Minutes of the Providence Association, held with the Providence Church, in Milton Township, Jackson County, Ohio, on the 11<sup>th</sup>, 12<sup>th</sup>, and 13<sup>th</sup> days of September, 1835” AB-SCHL, Roll 70.



references to Christianity, and called on African Americans to resist oppression “by all the means which the God of Nations has placed in our power.”<sup>53</sup>

Ohio’s black conventions also provide a telling insight into the racial dynamics of Ohio politics as a whole. Frequently held in either Columbus or Cincinnati, these events served two central purposes for Ohio’s black community. First, they brought African Americans from disparate locations together in a forum to discuss and debate the implications of the state’s racial attitudes for their communities and develop political strategies of resistance. Beginning in 1837, Ohio’s African-American leaders held state conventions intermittently through the 1850s, but with increased regularity after 1843. The numbers of delegates from throughout the state varied from year to year, but generally included representatives from counties with both relatively high and low black populations alike. Not surprisingly, however, the largest portion of the total delegate count consistently came from counties with the largest black populations. Using 1844 as an example, of a total statewide delegate count of sixty eight, fully half came from four of the five counties with the largest African-American populations in Ohio based on the census of 1840.<sup>54</sup>

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<sup>53</sup> Foner and Walker, eds., *Proceedings of the Black State Conventions, 1840-1865*, (Philadelphia: Temple University Press, 1979, Vol. I), 228.

<sup>54</sup> The greatest number of delegates in the 1844 convention from Ross, Highland, Hamilton, and Franklin counties. For a statewide assessment of Ohio’s racial demographics, see: 1840 US Census, Historical Census Browser. For a list of the delegates to the 1844 Ohio state black convention, Philip Foner and George E. Walker, eds., *Proceedings of the Black State Conventions, 1840-1865*, (Philadelphia: Temple University Press, 1980, Vol. II.), 310-311.

Table 2: Delegates to Ohio Black Conventions by County of Origin<sup>55</sup>

Year of Convention:	1844	1849	1851	1857
High African-American Population:	34	23	19	23
High Vote, Free Soil/Republican Party:	1	8	2	5
All Other Counties:	33	10	17	13
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Total:	68	41	38	41

*Breakdown of delegates to Ohio state black conventions in select years based on counties of represented. Top five counties given for counties with high African-American populations and voting for political anti-slavery affiliated third parties. Election data based on 1848 and 1856 election data, the first years in which the Free Soil and Republican Parties participated in national elections, respectively.*

As Table 2 shows, a somewhat surprising aspect of the black state convention movement is that with few exceptions, areas that strongly supported the Free Soil movement and later the Republican Party had little to no higher rates of representation in the black conventions. Stated another way, being from a more politically “safe” county in Ohio did not necessarily signify a greater tendency for African-American political mobilization. In fact, many of the counties with the highest percentages of votes for the Free Soil and Republican Parties also ranked at or near the bottom in terms of the numbers of African Americans appearing in the census reports. Thus, despite Lorrain

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<sup>55</sup> The highest counties in terms of overall black population between 1840 and 1860 were Hamilton, Franklin, Ross, Gallia, and Highland counties. For the Liberty, Free Soil, and Republican Parties, Ashtabula, Lorrain, Cuyahoga, Erie, and Trumbull Counties consistently ranked at or very near the top in terms of voting for traditionally stronger anti-slavery parties.

County serving as a notable exception in 1849, on the whole, black political organization seemed to originate far more consistently in strongholds of Ohio's African-American community rather than bastions of antislavery voting behavior.<sup>56</sup>

Despite the climate of political hostility, Ohio's African Americans had established independent community institutions. While black schools struggled to gain traction in the absence of public funding, they nonetheless provided a tangible example of the importance of official recognition and public funding, or lack thereof. The school question, along with other legal and political issues, served as rallying points for further black activism in the 1840s. As African Americans began to advocate more forcefully for civic and political equality, the church and the black conventions were often at the center of the movement.

### **Violent Enforcement: Ohio's Racialized Mobs**

The steady growth of Ohio's black community and their institutions elicited harsh responses from the state's white population. While the aforementioned Colonization Movement in Ohio never openly supported racial violence, other white Ohioans did resort to physical force as a means to intimidate African Americans. A report from the 1835 Ohio Anti-Slavery Society Convention reveals the lengths to which some were willing to go in their efforts to keep blacks out. In 1829, Cincinnati officials issued a proclamation requiring all members of the city's black population to prove they had met the standards of Ohio's residency laws within thirty day, or face expulsion. When many

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<sup>56</sup> For a breakdown of voting data at the county level for the election of 1848, see "The Vote of Ohio," in *The Cleveland Herald*, 25 November, 1848. For 1856, "The Official Vote of Ohio for President," in *The Daily Cleveland Herald*, 27 November, 1856. For lists of the delegates to the black conventions of Ohio, see Foner and Walker, eds., *Proceedings of the Black State Conventions, 1840-1865*, (Vol. I), 211-353.

failed to meet this demand, a white mob assailed black neighborhoods for three days. Meanwhile, a group of black delegates had gone to Canada to consider the possibility of relocation. Upon the Canadian expedition's return, the Ohio Anti-Slavery Society estimated that approximately one half of the black population chose to leave Cincinnati.<sup>57</sup>

Fears of abolitionist meddling also led to mob violence at least partially targeting African Americans. In July 1836, shortly after *The Philanthropist* began operation, a mob attacked the paper's printing house, destroyed the press, and threatened the safety of the its editor, James G. Birney. Although *The Philanthropist* primarily represented the views of Ohio's white abolitionists, the summer riot also had racialized overtones with deep implications for the state's African Americans. Several months before the riot on *The Philanthropist*, anti-black mobs in Cincinnati had physically assaulted several African Americans and destroyed their homes. In addition, the city's mayor had threatened to cancel the Fifth of July festivities unless Birney cancelled a speech he had planned for that event.<sup>58</sup> Finally, a well-publicized political argument, in which a man black clearly outwitted his white opponent, only furthered the racial implications of the mob's anti-abolitionist actions. Citing these and other factors, an Ohio Anti-Slavery Society report on the riot observed that city leaders, out of sympathy for their southern neighbors, sought to quell the abolitionist press so "that a sacrifice of the rights of freemen *here*

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<sup>57</sup> "Report on the Condition of the People of Color in the State of Ohio," From the Proceedings of the Ohio Anti-Slavery Convention, Held at Putnam on the 22d, 23d, and 24<sup>th</sup> of April, 1835, SJMA-SC; see also: Nikki Taylor, "Reconsidering the 'Forced' Exodus of 1829: Free Black Emigration from Cincinnati, Ohio to Wilberforce, Canada," in *The Journal of African American History*, 87 (2002): 283-302.

<sup>58</sup> David Grimsted, *American Mobbing, 1828-1861: Toward Civil War* (New York: Oxford University Press, 1998), 59.

should be made ... to secure the perpetuation of wrongs of slaves *there*.”<sup>59</sup> While such a statement was aimed at the often cozy relations between Cincinnati commercial and political elites and their southern business partners, the reference to “a sacrifice of the rights of freemen *here*” also served as a serious commentary regarding the racial conditions of Ohio.

Both the 1829 and 1836 riots paled in comparison to Cincinnati’s racial unrest of 1841. Fueled by ethnic tensions and working class competition over jobs in the midst of a severe national economic downturn following the Panic of 1839, the 1841 Cincinnati riot marked one the most contentious moments in the racial history of Ohio. During the summer months, Cincinnati’s newspapers engaged in a public campaign against the city’s black residents. In late August 1841, a fight between a group of Irish immigrants and African Americans ignited widespread violence.<sup>60</sup> Flamen Ball, a Cincinnati lawyer witnessed the event firsthand, and recounted them in a letter to his partner, Salmon P. Chase. According to Ball’s account, the African Americans involved in the dispute were “river loafers, not residents.” Several whites then proceeded to detain an African American they mistakenly believed to be involved in the confrontation. When he escaped to a black neighborhood, the mob, numbering up to 2,000 by Ball’s assessment, quickly turned violent. Several members of the mob attempted to ram the doors of a house in which they believed the accused were hiding, only to be temporarily rebuffed by gunfire from inside. While events momentarily settled down, the mob soon reorganized, bringing with them cannon, which they fired three times into Cincinnati’s black neighborhood. A

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<sup>59</sup> “Narrative of the Late Riotous Proceedings against the Liberty of the Press in Cincinnati,” Executive Committee of the Ohio Anti-Slavery Society, 1836, SJMA-SC.

<sup>60</sup> Grimsted, 63; Nikki Taylor, *Frontiers of Freedom: Cincinnati’s Black Community, 1802-1868* (Athens: Ohio University Press, 2005), 118.

response of gunfire from entrenched African Americans left “many on both sides killed or wounded.” Only with the intervention of local militia was the violence squelched. In concluding his letter to Chase, Ball lamented “it is disgusting to hear the maledictions uttered against the colored persons—the anti-negro spirit seems to be revived with all its former vindictiveness.”<sup>61</sup> As this and other instances of violence suggest just how far some whites were willing to go to in order to expel and intimidate Ohio’s black population.

While Ohio politicians had put in place severe legal and political restrictions, the battle over race in Ohio was often fought in the press, or more violently, in the streets. These repeated eruptions of mob violence demonstrated that many whites had no inhibitions when it came to the use of violence preventing African Americans from participating in Ohio society on an equal footing. Despite these efforts at intimidation, however, the state’s black population was developing and producing institutions that were fundamental to its survival.

## **Conclusion**

Three accounts of the Cincinnati riot of 1841 highlight the contested understanding of race in antebellum Ohio. A meeting of the Hamilton County Colonization Society suggested that if free blacks remained in the United States, they would “live and die in despair, bequeathing that, and that only, as an inheritance to their

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<sup>61</sup> Flamen Ball to Salmon P Chase, 4 September, 1841, in *The Salmon P Chase Papers: Correspondence, 1823-1857*, ed. John Niven (Kent: Kent State University Press, 1994, 5 vols., vol. II), 77-78.

offspring.”<sup>62</sup> This position essentially restated the position of many white Ohioans toward blacks. African Americans could at best expect to be politely shown the door, but more often were subjected to the harsher side of white hostility. Representing the more progressive position of some white anti-slavery activists was Salmon P. Chase, who later became one of Ohio’s most prominent nineteenth-century political leaders. Making reference to the 1841 riot, Chase wrote to a friend “I see no reason why any law & liberty loving man ... should wish to come to this place. We have earned a most unenviable distinction for lawless violence.” He chastised both the local clergy and city officials for their failure to forcefully condemn the mob action. Despite this pessimistic assessment, however, Chase also saw a silver lining, suggesting that “there is a large amount of anti-slavery feeling in this city,” which could be translated into political action.<sup>63</sup> Writing his autobiography in 1894, John Mercer Langston poignantly recounted his recollection of the Cincinnati race riot of 1841. Langston, who later became one of Ohio’s leading black activists during the antebellum era, and a major national figure in Reconstruction, was only a boy of twelve when the racial unrest broke out in Cincinnati. While Langston recalled the horror of those events, he too sensed positive changes, particularly within Ohio’s black community. In addition to furthering the resolve of anti-slavery sentiment, Langston remarked that in the aftermath of the racial violence, black Ohioans “were learning what their rights were and how to advocate and defend them.”<sup>64</sup>

Despite the use of restrictive policies, the activities of white mobs, and the promotion of colonization schemes, white Ohioans failed to rid the state of African

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<sup>62</sup> Untitled, *The African Repository and Colonial Journal*, January, 1842.

<sup>63</sup> Salmon P. Chase to Charles D. Cleveland, 22 October, 1841, in *Chase Correspondence*, 79-81.

<sup>64</sup> John Mercer Langston, *From the Virginia Plantation to the National Capital* (New York: Arno Press and the New York Times, 1969), 66-67.

Americans or stop their entrance into the state. But in order to challenge and ultimately overturn the state's Black Laws, Ohio's black community steadily organized and strengthened their own internal institutions. In addition, they also developed a heightened sense of political awareness and activism. These attributes, combined with the work of groups of committed white abolitionist and political leaders not only led to the repeal of several of Ohio's racial statutes, but also by the 1850s signaled broader shifts within the political landscape.



## CHAPTER TWO: COMMUNITY ACTIVISM AND POLITICAL TRANSITION, 1839-1849

On 2 October, 1844, a Columbus, Ohio African-American newspaper, *The Palladium of Liberty*, carried an account of a confrontation between a black Ohioan named Watson and a McNulty, a Democratic Party nominee for Congress.<sup>1</sup> McNulty initiated the conversation by inquiring of Watson where he was going. Watson replied that he was on his way to the Ohio Convention of Colored Citizens with the purpose of demanding the rights for the state's African-American population. Upon hearing this, McNulty responded that blacks were not "entitled to privileges any more than the dumb brutes," suggesting they would be better off if they left the United States since they were "not human beings, and have no souls." Watson artfully replied that McNulty, despite his "intelligence and education ... never knew a dumb brute capable of reasoning or talking as I do to you." Not willing to concede Watson's claims to citizenship, McNulty offered that African Americans had "no more right to be here than the Orang Outang," and that if elected his first order of business would be to drive blacks out of the country. When Watson countered that blacks would not consent to being driven off, McNulty offered a

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<sup>1</sup> Although their first names are not given in the article, it is likely that this dispute was between John L. Watson, and Caleb McNulty. The former was active in the black press, and the latter a Democratic representative in the Ohio legislature, an unsuccessful candidate for the United States House of Representatives, as well as a clerk for the U.S. House in the 1840s. For more on McNulty, see Albert Adams Graham, *History of Knox County Ohio: Its Past and Present*, (Mount Vernon, OH: A.A. Graham & Co., 1881), 267. For more on Watson, see below.

ghastly horrific scenario, suggesting that if African Americans could not be driven out, whites would murder them and “manure our lands with your bodies.” After McNulty made yet another comparison between blacks and brutish animals, Watson concluded the conversation by suggesting that if McNulty were elected (though highly unlikely in his estimation), the candidate “would disgrace not only the District you represent, but the State and the Nation.”<sup>2</sup>

Although this confrontation over race and politics between Watson and McNulty was particularly heated, it nonetheless encapsulated the contested racial and political climate of antebellum Ohio. On one hand, McNulty represented, in its most radical manifestation, the state’s official position toward black Ohioans. Rejecting their claims to citizenship, Ohio policy repeatedly denied African Americans civil and political rights, and openly supported their removal. Yet Watson’s response offered an important glimpse into how African Americans challenged the political and social dynamics of the state’s racial policies.

As Ohio’s African-American community matured, its focus shifted from meeting needs through internal organization to a broader outlook, which encompassed greater political activism within both the state’s political institutions and the wider public sphere. During the 1840s, Ohio’s antebellum black leaders developed an activist strategy that relied on community leadership and organization, relations with Ohio’s white abolitionists and allies, the black and abolitionist press, and direct contact with the state’s political institutions. Furthermore, while Ohio had spent considerable energy in limiting the rights of African Americans during its first decades of statehood, the activism that

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<sup>2</sup> “Dialogue in a Stage,” *The Palladium of Liberty*, 2 October, 1844.

developed after 1835 coincided with broader shifts within the state's political climate that ultimately proved somewhat more favorable to African Americans.

### **Emerging Political Activism**

While Ohio's black leaders showed great commitment in supporting the state's African-American institutions, as long as the Black Laws remained on the books they found themselves in a position of distinct civic and political disadvantage. Still, Ohio's African-American population was not without recourse in addressing their grievances. Based in the strategic political and population centers of Columbus and Cincinnati, Ohio's black elite employed various strategies to combat Ohio's policies on race throughout the 1840s. These included the use of black newspapers, renewed petitioning efforts, an increasingly politically-oriented convention movement, and the integration of sympathetic white organizations and allies into the legal reform movement. While state politicians were slow to address the concerns of Ohio African Americans, many of these combined efforts worked to shift the attitudes within Ohio's wider public sphere.

If Ohio's African Americans were to move public sentiment in their favor, they knew they had to offer their own voice on the issues that concerned them. Becoming active in the state's print culture would enable blacks to insert their views into the public forum. Central to this effort was the emergence of the Columbus black newspaper, *The Palladium of Liberty*. Though short-lived and plagued by a constant lack of funds, it nonetheless provided a forceful and articulate expression of the issues important to

Ohio's black community.<sup>3</sup> Throughout the *Palladium's* existence in 1843 and 1844, the newspaper repeatedly questioned the legitimacy of Ohio's Black Laws. The newspaper pointed out the problems within the state's policies toward African Americans.

Furthermore, it demonstrated the acute political awareness of Ohio's black community.

Because the courts were one important civic arena in which African Americans were denied equal representation, the black press took every occasion to exploit the inconsistencies inherent within Ohio's judicial policy. In early, 1844, *The Palladium of Liberty* carried a story that directly challenged the legitimacy of Ohio's Black Laws. During the previous month, while returning home from church, Edward Peirce, an African-American resident of Zanesville (east central Ohio) was accosted by "three villainous rascals," during which he sustained mortal injuries. Juxtaposing the pious and industrious Peirce against his nefarious assailants, the author of the article decried the law prohibiting African-American court testimony that made it possible for the murderers to evade justice.<sup>4</sup> Another commentator on the Peirce murder case suggested that the state's refusal to allow African-American testimony against whites promoted a climate in which criminals could act with impunity. "The scape gallows<sup>5</sup> and the midnight assassin, can, and does attack us," one observer noted, "and take our lives, rob our houses, defile our wives and daughters, at the same time the law protects them by the color of the skin, and they ... say 'here is nothing but negroes, we can do just as we please'."<sup>6</sup> While clearly concerned about the law's consequences for the black community, these articles also

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<sup>3</sup> *The Palladium of Liberty* was not alone among African American newspapers in its constant liquidity crisis. See Benjamin Quarles, *Black Abolitionists* (New York: Oxford University Press, 1969), 88-89.

<sup>4</sup> Untitled Letter Dated 25 March, 1844, *The Palladium of Liberty*, 3 April, 1844.

<sup>5</sup> Scape gallows refers to someone who has evaded the law.

<sup>6</sup> "Outrage and Death," *Palladium of Liberty*, 10 April, 1844.

argued forcefully that by failing to provide the right of court testimony to African Americans, white political leaders ensured conditions that promoted lawlessness throughout society.

The black press also identified inconsistencies within the state's school policies, arguing that racial discrimination was fundamentally contrary to the ideals and goals of an educational system designed to improve society as a whole. Pointing out "that the doors of said Schools, Academies, and Universities shall be open to teachers and scholars of whatever grade &c.," *The Palladium of Liberty* found contradictions among state leaders who at once praised the virtues of education but declared they should only be enjoyed by white students.<sup>7</sup> Another African-American commentator on Ohio's educational policies posited the theory that the legislature had decided to repeal certain taxes on blacks for educational purposes as an act of appeasement, hoping that such a move would quiet appeals for reform in other areas.<sup>8</sup> Still another challenge to Ohio's refusal to grant African Americans access to public education appeared in the 1844 Convention of Colored Citizens. In it, African-American leaders found an inherent contradiction within rhetoric that simultaneously suggested that blacks were a degraded population and yet were undeserving of school privileges, the most effective means of self-improvement. Challenging the very foundation of the state's educational policies, the Convention asked "what advantage ... is it to our white fellow-citizens that we grow up in their midst an ignorant, degraded, immoral, vicious, and indolent people?"<sup>9</sup>

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<sup>7</sup> "School Tax," *The Palladium of Liberty*, 12 June, 1844.

<sup>8</sup> "Political Disabilities—No. III," *The Palladium of Liberty*, 26 June, 1844.

<sup>9</sup> "Address of the State Convention," *The Palladium of Liberty*, 13 November, 1844.

Prominent African Americans on the national scene also used the press to exploit the inconsistencies of Ohio's racial policy and praised those whites who rejected racial prejudices. In 1848, for example, Cleveland was chosen as the site for the National Convention of Colored Freemen, which drew the attention of Frederick Douglass, whose newspaper, *The North Star*, reported extensively on the convention's proceedings, carrying numerous speeches and resolutions.<sup>10</sup> Douglass found higher than expected support among Cleveland's white population and expressed his satisfaction that although the Black Laws were intended to discourage African-American migration to Ohio, "we are not only welcomed within her borders, but her law administrators throw open the doors of her public buildings (meeting houses) for our accommodation."<sup>11</sup> While this may not have accurately reflected the attitudes of most white Ohioans, the Western Reserve region, in the northeast corner of Ohio, often provided a stronghold for progressive views on race and anti-slavery activism. Support from whites in any area of the state must have been an encouraging sign to outsiders like Douglass about the potential for reform.

While the National Convention of 1848 garnered special attention, *The North Star* also regularly reported Ohio's political situation and repeatedly called for the repeal of the Black Laws, challenging their inconsistencies. One Ohio correspondent criticized the state's denial of African-American suffrage, pointing out that without the right to vote, blacks lacked representation in state government, which naturally resulted in abuses like the Black Laws. Still, however, Ohio African Americans did enjoy the right to petition,

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<sup>10</sup> "Proceedings of the Colored Convention," *The North Star*, 29 September, 1848.

<sup>11</sup> "Colored National Convention at Cleveland," *The North Star*, 15 September, 1848.

which had been restored in 1842, through which, they could “pray for the repeal of all those laws founding distinctions according to the color of the skin.” Nonetheless, the writer’s outlook remained bleak. Without the right to vote African Americans were “not a constituent portion of the representative population, and can therefore be insulted with impunity.”<sup>12</sup> Another Ohio correspondent for *The North Star* took more direct aim at the state’s dominant political party. “The law-making party in Ohio [the Whigs], claims to be the true friends of our race,” the writer pointed out, “yet will not repeal the odious Black Laws.”<sup>13</sup>

Ohio’s black leaders also used the National Black Convention of 1848 as an opportunity to reorganize the African-American state convention movement. Just as Frederick Douglass was praising the conditions he witnessed in the Western Reserve, a number of Ohio’s leading African Americans declared that “the peculiar circumstances under which the colored people of the United States are placed, demand immediate, constant and energetic action on our part.” They asserted “conventions are pre-eminently calculated to enhance that action.” Pursuant to those ends, Ohio’s black leaders called for a statewide convention, which was subsequently held the following January.<sup>14</sup> Unfortunately, records for previous black Ohio state conventions are sparse, and usually were only available through reprinting in newspapers. Nevertheless, the 1848 call for a statewide convention demonstrates a strong commitment to activism among Ohio African Americans in their stance toward the state’s racial conditions and policies.

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<sup>12</sup> “The Ohio Black Laws—No. 3,” *The North Star*, 18 August, 1848.

<sup>13</sup> The Ohio Black Laws,” *The North Star*, 21 January, 1848.

<sup>14</sup> “Call for the Convention, as Reported in *The North Star*, 8 December, 1848,” in *Proceedings of the Black State Conventions, 1840-1865*, ed. Philip S. Foner and George E. Walker (Philadelphia: Temple University Press, 1979, 2 vols., vol. I), 218.

Black Ohioans also used both the press and the convention movement to stress their loyalty to the republic. In their view, this marked an important qualification for equal civic and political standing. Making a direct connection between trial rights and national and state loyalty, Ohio's 1843 Black State Convention argued that the right to testify under oath would signify "that we are possessed of reason, and that the love of truth is as much implanted in our being as it is in any other portion of the human family."<sup>15</sup> This particular appeal indicates an appropriation and articulation of wider mainstream ideas of American nationalism. One African-American commentator suggested that free blacks in the North would, if given full legal equality, "unite heartily in defense of ... government."<sup>16</sup> Another observer of the aforementioned Peirce murder case urged the black community organize, form conventions, flood the state legislature with petitions, and "show to the world that we are men and patriots."<sup>17</sup> Yet another article reminded readers, black and white alike, that African Americans, when called upon to serve the cause of national defense, they had performed nobly. Recalling the Battle of New Orleans, *The Palladium of Liberty* noted "We suppose he [Lewis Cass] has not forgotten how brave those black troops were when under General Jackson, while contending against an invading foe."<sup>18</sup> As one scholar who wrote a detailed study of *The Palladium of Liberty* points out, the editors of the paper used such portrayals of black

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<sup>15</sup> "Address to the Citizens of Ohio," *Palladium of Liberty*, Dec. 27<sup>th</sup>, 1843.

<sup>16</sup> Untitled, *The Palladium of Liberty*, 29 May, 1844.

<sup>17</sup> Untitled Letter Dated 25 March, 1844, *The Palladium of Liberty*, 3 April, 1844.

<sup>18</sup> *The Palladium of Liberty* carried a letter written by Cass, who had served as Andrew Jackson's Secretary of War, in which he supported Texas Annexation on the grounds that, if left unoccupied, Texas would fall into British hands and become a staging ground for an abolitionist war against the South. Based in the West Indies, he argued, British forces would deploy black troops through Texas in an effort to destroy the South and jeopardize the security of the entire United States. See: "Letter of Gen. Cass," in *The Palladium of Liberty*, 6 June, 1844; For Andrew Jackson's own views on African American troops during the Battle of New Orleans, see: Robert V. Remini, *The Battle of New Orleans: Andrew Jackson and America's First Military Victory* (New York: Viking Press, 1999), 37.



loyalty to the republic as a key tactic in claiming their right to political equality, while at the same time rhetorically undercutting existing policies.<sup>19</sup> Essentially, these reports combined the political arguments that were fundamental to the wider strategy of Ohio African Americans, pointing out both the shortcomings of the existing policy as well as making a claim for blacks' deservedness of expanded civil and political rights.

While earlier conventions had primarily dealt with encouraging racial uplift and had couched political demands largely in terms of loyalty and deservedness, by the 1849 meeting of the Convention of Colored Citizens, black leaders were arguing for reform in noticeably more assertive terms. The 1849 convention defined its civic and political positions unequivocally. Finding irony in the fact that legal repression existed in a state to which they had fled "for refuge and protection," the Convention urged Ohio to own up to its professed claim of being a free state. Within the convention's call to action, however, it also advised African Americans to take action on their own behalf. The convention declared plans to petition the state legislature to "repeal all laws making distinction on account of color," and urged African Americans throughout the state to take similar action. Moreover, the convention attempted to reshape the implications of the very act of repeal. In an open letter to the citizens of Ohio, the convention declared, "we ask for equal privileges, *not* because we would consider it a condescension on your part to grant them—but because we are MEN, and therefore entitled to all the privileges of other men in the same circumstances."<sup>20</sup> Stated otherwise, this resolution was not a timid request for a concession, but rather an assertive demand for full political and civic equality. While

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<sup>19</sup> Dennis C. Hollins, "A Black Voice of Antebellum Ohio: A Rhetorical analysis of the Palladium of Liberty, 1843-1844," PhD Diss., Ohio State University, 1978, 87.

<sup>20</sup> Ohio State Convention of Colored Citizens, Declaration of Sentiments and Resolutions, 1849 in *Proceedings of the Black State Conventions*, 228, 233.

Ohio's African-American community had long voiced opposition to the state's discriminatory policies, the 1849 convention displayed a much more forceful challenge than previous critiques. Moreover, it clearly recognized that the road to obtaining greater civil liberties ran through Columbus.

Although it would be easy to view black conventions as isolated events, ignored by the wider political scene, Ohio's antebellum mainstream print culture offers convincing evidence to the contrary. As early as 1837, when African Americans first began holding conventions in Ohio, the state's newspapers covered these events in surprising detail. Cleveland's *Daily Herald and Gazette*, for example, carefully detailed the 1837 convention's efforts to organize an educational fund and petition the legislature.<sup>21</sup> Another *Herald* article, covering the 1843 national black convention had even included an open letter from the former slaves of John Randolph who established a settlement in southwest Ohio. In the circular, the black residents highlighted their achievements and called on the state's white citizens to "have a revival of faith in their own principals of 'liberty,' and make equal laws for the love of justice."<sup>22</sup> The Hudson, Ohio paper, *The Ohio Observer* published another account of an 1851 black convention, and commented "the leading minds among them [African Americans] are alive to the real evils that oppress them ... and perceive with a sagacity, not often surpassed in whiter spheres, the true remedy for them." The story summarized several of the convention's resolutions regarding political and social conditions in Ohio.<sup>23</sup> While many more

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<sup>21</sup> "A Brief Sketch of the Proceedings of the Convention of Colored Delegates," *Daily Herald and Gazette*, 13 September, 1837.

<sup>22</sup> "National Convention of Colored Men—Negro Colony in Ohio," *Cleveland Daily Herald*, 26 August, 1843.

<sup>23</sup> "The Colored People's Convention," *The Ohio Observer*, 9 April 1851.

examples could be cited, they all indicate a common theme. The black convention movement, a powerful and important phenomenon within the African-American community, did not occur in a vacuum. Black political gatherings even received attention from newspapers that were not always sympathetic to black concerns. This coverage, though often negative, inadvertently provided African Americans a platform widely accessible in the broader public sphere. In this light, Ohio's black conventions emerge as a sometimes unwanted, but nonetheless influential, part of Ohio's political culture.

### **White Allies and Court Victories**

While Ohio's black leaders displayed yeoman-like commitment to achieving greater civil rights, they also benefited from a small group of sympathetic white leaders and organizations. While conservative attitudes sometimes permeated these groups and individuals, more often than not, white abolitionists were steadfast in their opposition to the Ohio Black Laws, even if advocacy for full racial equality remained elusive.

Arguably the most powerful white medium sympathetic to the plight of black Ohioans was the Cincinnati abolitionist newspaper, *The Philanthropist*. Established by anti-slavery activist and the 1840 Liberty Party candidate for president, James G. Birney, the paper was generally reliable in its opposition to the Black Laws and its support of African Americans.

*The Philanthropist*, though a white organ, served an important function in supporting the needs of the black community. Ohio's African-American community was in large part sustained by local and state-wide meetings and conventions. *The Philanthropist* played an important role in that capacity by including notices of these

gatherings. In most cases, announcements were brief and included only basic information about the time and place of the upcoming event.<sup>24</sup> Often, *The Philanthropist* summarized meetings as well. After offering a short account of one such event in Columbus, the paper, obviously writing to its black subscribers, urged African Americans to “demonstrate your fitness for the franchises of freemen:--in this way you are to strike the blow, that will unshackle your energies.”<sup>25</sup>

Black writers were also featured in Birney’s Cincinnati *The Philanthropist*, and their columns often took a favorable stance towards the paper. William H. Yancy, a black Cincinnati activist, upon seeing an announcement for an upcoming African-American state convention, praised *The Philanthropist* for its support. “Permit me here to say that in all we do let us have an eye simply fixed on the mighty efforts of our [white] anti-slavery friends,” Yancy approvingly remarked, for “they are contending for principles, the foundations of which shall stand whilst nations shall dwindle into utter insignificance.”<sup>26</sup> Even when the message was potentially controversial, *The Philanthropist* still carried opinions written by black writers. In one case, “W.B.” challenged the basic assumptions of race that may have been held by even the most progressive white abolitionists. “W.B.” openly called into question the norms of racial identity and labeling. He (or she) strongly urged the rejection of the term “colored” when describing blacks. Fearing that proslavery advocates would seize upon the term and use it to justify arguments for black inferiority, “W.B.” suggested that the terms “‘oppressed American,’ or Africo-American,’ would be

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<sup>24</sup> “Colored People of Columbus,” *Philanthropist*, 29 March, 1843.

<sup>25</sup> “Colored People of Columbus,” *The Philanthropist*, 29 March, 1843.

<sup>26</sup> “Convention of Colored People at Columbus,” *Philanthropist*, 26 July, 1843.

more suitable and less objectionable than ‘Colored American.’”<sup>27</sup> Clearly, some Ohio blacks who supported *The Philanthropist* recognized the value of working with the sympathetic white press whenever possible, despite potential differences in objectives.<sup>28</sup> This coverage served as a de facto method of fostering greater communication and organization among the regionally segmented portions of Ohio’s African-American population as well as a genuine ally within the state’s print culture.

Although the assistance of sympathetic white newspapers served as an important venue for African Americans in the wider public sphere, blacks also benefited from occasional support within Ohio’s legal infrastructure. While denied the right to testify against whites, the courts nonetheless did allow African Americans to have their cases heard, providing them with invaluable access to the realm of law and politics. More important, however, was the willingness of the court system in rendering challenges to Ohio’s racial policies. Although few court decisions actually overturned the laws, some progressive-minded Ohio judges wrote opinions that strongly favored black civil rights and openly criticized the Black Laws.<sup>29</sup> Most importantly, the arguments and critiques that sympathetic white jurists raised often reflected those of the Black Laws offered by African Americans.

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<sup>27</sup> “Something in Words,” *The Philanthropist*, 20 February, 1838; nor was “W.B.” alone in his anxiety over the appropriate label to apply to free blacks. For an extensive scholarly treatment of the issue, see Rael, *Black Identity and Black Protest in the Antebellum North*.

<sup>28</sup> The subject of racial disharmony between black and white abolitionists has been well documented. See , for example, Horton and Horton, *In Hope of Liberty*; Litwack, *North of Slavery*; Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and Race in New England, 1780-1860* (Ithaca: Cornell University Press, 2000); Rael, *Black Identity and Black Protest*; James Brewer Stewart, *Holy Warriors: The Abolitionists and American Slavery* (New York: Hill and Wang, 1976).

<sup>29</sup> Middleton, *The Black Laws*, 130-131.

Several pivotal court cases forced Ohio's most important legal authorities to confront the legal conundrums surrounding the state's Black Laws. The case of *Jordan v. Smith* involved whether or not Nancy Smith, a black woman, could call on fellow African Americans as witnesses in a case in which she was the defendant, and the plaintiff was white. When it reached the Ohio Supreme Court, the justices found themselves in a difficult position. Though the majority was opposed to the testimony law, they nonetheless felt powerless to overturn it. As such, the court had no choice but to rule against Smith. Still, the court harbored misgivings over the testimony law. Writing the opinion, Justice Peter Hitchcock argued that "in all my experience ... I can not recollect a single case in which this law has been subservient to the ends of justice. On the contrary, its uniform effect has been to prevent justice, both public and private."<sup>30</sup> In many ways, this sentiment reflected the concerns raised by African Americans, who pointed out that barring black testimony resulted in negative judicial consequences for all members of society, whites included.

The testimony law continued to draw the attention of Ohio's highest court. In the case of *Woodson v. State*, the state Supreme Court considered the role of black witnesses in settling the estate of John Woodward, a person of mixed racial ancestry. In the case's initial stages, lower courts had actually used the testimony of African Americans, and in the hearing before the Supreme Court, representatives for the state suggested that the black testimony law needed to be narrowly interpreted, applying only to cases involving the criminal prosecution of a white person in which blacks could be potential witnesses.

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<sup>30</sup> Case of *Jordan v. Smith*, January Term, 1846, *Reports of Cases Argued and Determined in the Supreme Court of Ohio* (Cincinnati: Robert Clarke and Company, 1860, vol. XVII), 200-204.

Although the court ruled against the state, effectively reinforcing the testimony law, the opinion nonetheless suggested room for maneuvering. Arguing that the circumstances of the case too ambiguous, the court ruled that “the proper time to decide them [the issues surrounding black testimony] will be when a case arises which will make decision of those points decisive of the controversy.”<sup>31</sup> While the legislature had *officially* denied blacks the right of testimony, clearly some within Ohio’s judicial system felt it appropriate to call on African Americans when it was convenient to do so.

While these cases dealt with the issue of black testimony, the Ohio Supreme Court also heard cases involving voting rights for persons of color. In the 1842 case of *Jeffries v. Ankeny*, the court determined that persons with Native American ancestry who appeared white deserved the right to vote.<sup>32</sup> This set the stage for the case of *Thatcher v. Hawk*, which considered whether the same principle applied to residents of African-American heritage. The court found, in accordance with *Jeffries v. Ankeny*, that as long as a male resident was mostly white or at least appeared to be so, he should be allowed to vote despite the existence of some African ancestry. The *Hawk* decision further supported the state’s policy of visible admixture, which afforded persons of some black background greater civic and political opportunities. While the decision supported voting rights for those of mixed racial background, the case also elicited a strong dissenting opinion. Justice Nathaniel Reed argued that the state’s voting policies had been intended to allow

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<sup>31</sup> Case of *Woodson v. The State*, December Term, 1848, *Reports of Cases Argued and Determined in the Supreme Court of Ohio* (Cincinnati: Robert Clarke & Co., 1873, vol. XIII), 161-169.

<sup>32</sup> Summary of *Jeffries v. Ankeny*, in Middleton *The Black Laws of the Old Northwest*, 149.

suffrage rights exclusively for the enjoyment of whites. Moreover, in his view, there was only one definition of white: unmixed.<sup>33</sup>

Despite Reed's dissenting opinion, the *Thatcher v. Hawk* decision and others like it created an important precedent, and Ohio African Americans knew it. In an address to the citizens of Ohio, the 1844 Ohio State Convention of Colored Citizens urged Ohioans to reconsider the Black Laws. Citing recent court decisions, the black convention praised the state Supreme Court's and argued that "the honorable judges regard those laws as tyrannical and oppressive." The convention further pointed out that the recent decisions would undoubtedly protect persons of mixed racial ancestry from the discriminatory practices of the Black Laws. Essentially, the African-American convention used the court decisions and the state's stance on visible admixture to highlight the inconsistencies within the Black Laws. The convention fittingly concluded by appealing to Ohioans of all political stripes, asking "is it not right then, *fellow countrymen* [emphasis added], that we should raise our voice, and ask you how it happens that in this boasted land of universal freedom and equality...Freeborn Americans are disfranchised, proscribed, and degraded ... under the sanction of certain mandates misnamed *Laws* (emphasis in the original)."<sup>34</sup>

Despite the court's limited capacity to overturn Ohio's racial policies, it clearly was a medium through which African Americans could express their legal and political grievances. Moreover, in the cases in which the court was unable to rule in favor of African Americans, it nonetheless found ways to critique the Black Laws. Finally, as the case of *Thacker v. Hawk* demonstrates, the court could expand the avenues of political

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<sup>33</sup> Case of *Thacker v. Hawk et al.*, December Term, 1842, *Reports of Cases Argued and Determined in the Supreme Court of Ohio* (Cincinnati: Robert Clarke & Co., 1887), XI: 377-386.

<sup>34</sup> "Address of the State Convention," *The Palladium of Liberty*, 13 November, 1844.



participation available to Ohio's African-American population. These factors combined to make the court system an invaluable resource for black Ohioans, despite the legislature's efforts to institutionalize judicial oppression. Through the combined use of their own use of print culture, working with abolitionist organizations, and the limited but very real points of access to Ohio's legal institutions, African Americans developed a strategy that drew attention to their political demands and highlighted the inherent shortcomings of the Black Laws.

### **Political Re-Alignment and Repeal**

Although the major repeal of the Black Laws did not take place until 1849, steps to afford African Americans greater civic and political access had begun to take shape as early as the late 1830s. These efforts, though incremental, signified a greater willingness among some Ohio politicians to recognize the basic concerns of the state's black population. One aspect of Ohio policy that demonstrated a shift in attitude was the right of petition. Soon after the 1839 legislature chose not to recognize black petition rights, abolitionist sympathizers strongly condemned the action and turned it into a key issue during that year's fall elections. As early as July of that year, *The Philanthropist* reprinted the names of those who had supported and opposed the resolution to disallow black petitions. It further suggested that Ohioans challenge local candidates on their position regarding petitioning and the Black Laws.<sup>35</sup> While action on the issue was not immediately forthcoming from Columbus, *The Philanthropist* continued to publicly push the need for recognizing black petitions. In one letter to the editor, a writer emphasized

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<sup>35</sup> "The Fall Elections," *The Philanthropist*, 23 July, 1839.

the virtues of various African Americans he had met throughout the state. Gamaliel Bailey, James Birney's successor as editor of *The Philanthropist*, used this letter to emphasize the humanity of African Americans, and pointed out that they were both law abiding and productive members of society.<sup>36</sup>

Eventually, the right of petition for African Americans was restored by changes in legislative practice. In December of 1840, for example, one lawmaker from Chillicothe submitted a petition from sixty-nine African Americans requesting the repeal of the Black Laws. Although he did not agree with its position, he nevertheless sympathized with their claim to the right of petition and hoped they “would be received and treated respectfully.”<sup>37</sup> Still, the right to petition remained on precarious ground until an 1841 legislative debate on the subject. After one Whig legislator altered the rules of a committee to allow both anti-slavery petitions as well as challenges to the Black Laws, he was met with sharp resistance from several Democrats. Repeated attempts to table the petitions in question failed, and the committee, which was established specifically to consider the issues brought forward by abolitionists and opponents of the Blacks Laws, was instructed to review all petitions. Although not specifically mentioning race, this change of attitude toward petitions seemed to open the way for greater access for blacks into official Ohio politics. *The Philanthropist* interpreted the rule change as “the defeat of the enemies of Liberty” and a sign that “the House of Representatives of Ohio, is determined to maintain the right of petition, not only in letter but spirit—and to extend

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<sup>36</sup> “Deeply Interesting Facts,” *The Philanthropist*, 24 December, 1839.

<sup>37</sup> “General Assembly,” *The Philanthropist*, 13 January, 1841.

liberal courtesy to those holding opinions most unpopular.”<sup>38</sup> Blacks also interpreted this as a political victory. An 1842 meeting of Columbus African Americans viewed petitioning as potentially fruitful, as they rescinded a resolution passed at a prior meeting that rejected petitioning as an inadequate tactic, and urged attendees to petition the Ohio legislature.<sup>39</sup>

Also indicative of a changing political climate in Ohio was the creation of committees charged with reexamining the Black Laws. As early as 1837, the Ohio legislature formed special committees to deal with the question of modifying the state’s racial policies. While historian Stephen Middleton, suggests these committees were little more than favors awarded to a minority within the Whig Party, the reports they produced shed important light on shifting political currents over the question of repeal.<sup>40</sup>

The 1837 Senate committee on the Black Laws was rather progressive in its findings, often using Ohio’s 1802 constitution to challenge the legitimacy of the state’s racial policies. The report’s introduction declared Ohio’s racial statutes were enacted as “odious and oppressive laws, to degrade and depress this portion of our population.” The committee members pointed out that during Ohio’s 1802 Constitutional Convention, a measure extending the right to vote to blacks was defeated by only a handful of votes, and only after it had already passed. The report reminded the legislature that each time subsequent attempts to further restrict black rights were raised at the convention they repeatedly failed. On the subject of the specific Black Law statutes, the committee leveled strong criticism. Decrying the five hundred dollar bond residency requirement,

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<sup>38</sup> “The Ohio Legislature,” *The Philanthropist*, 12 January, 1842.

<sup>39</sup> Untitled Article, *The Philanthropist*, 12 January, 1842.

<sup>40</sup> For a more detailed analysis of Ohio’s major political parties and their positions on the state’s Black Laws, see Middleton, *The Black Laws*, 42-73, 100-101, 115-118, 126-130.

the committee concluded that the legislatures responsible for enactment had attempted “to accomplish indirectly and covertly what they would shrink from doing openly and frankly.” Not surprisingly, the committee reserved its harshest critique for the law preventing blacks from testifying in court. Foreshadowing similar arguments made by African Americans and progressive judges, the committee argued that such restrictions were “contrary to sound policy, injurious to public morals, an obstruction to the impartial administration of justice ... and repugnant to the spirit and genius of our political institutions.”<sup>41</sup>

A similar committee report, compiled in 1846, also fundamentally disagreed with the premise of the black laws. Finding the racial statutes at variance with the 1802 constitution and the legacy of the Northwest Ordinance, the committee openly commented that “it is to us a matter of wonder and astonishment, that any law-makers ... could ever give their sanction to the enactment of such laws ... [and that] men should now be found in our legislative body, obstinately bent in persevering in support of such laws.” Countering the arguments of the supporters of the Black Laws, the committee asked rhetorically “do we find recorded in history a single instance where evils have resulted to any community, by reason of extending to all its people equality of political privilege?”<sup>42</sup> Although further action was not forthcoming for another three years, this strong statement indicates an increased openness to questioning the merits of at least some elements of Ohio’s racial policy.

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<sup>41</sup> The 1837 report is particularly extensive, and deals with each element of the black laws in incredible detail. For the particular examples mentioned, see “Report on Petitions to Repeal the Black Laws,” 4 December, 1837, in *The Black Laws of the Old Northwest*, 57, 60-61, 65-66.

<sup>42</sup> “Report of the Select Committee, On the Subject of Repealing the Laws Which Make Distinctions on Account of Color,” 9 January, 1846, *ibid*, 107-109.

While the 1837 and 1846 committees on the Black Laws were notably progressive, not all committees shared the same view. One 1842 committee report, in sharp contrast to the earlier findings, argued that popular sentiment opposed the repeal of the testimony law, and “it is inexpedient [to] now remove it.” On the subject of school funding, the committee reported that racial differences would naturally undermine integrated schools. On the other hand, the report found “no good reason or argument why blacks and mulattoes, where numerous enough to have schools exclusively of their own color, to be supported by their own means, should not have the aid of laws for that purpose, and we should be exempted from contributing to theirs, and they should not be required to contribute to ours.”<sup>43</sup> A minority committee report, dated from 1845, combined political inexpediency with pseudo scientific views on race and distorted historical references. Edward Archbold, a Democrat from Monroe County (southeastern Ohio), argued that natural animosity between the races would drive blacks and whites to violence against one another, and urged that any policies that encouraged black migration to Ohio would only yield negative results.<sup>44</sup>

Still, even the more conservative committees offered evidence of ambiguity. While the 1842 report strongly opposed repeal of the Black Laws, it did offer all Ohio residents, regardless of color, one notable concession. Effectively rebuking the legislature’s 1839 decision not to hear petitions written by black residents, the report asserted “believing fully in the right of the people, or any portion of them, to petition the general assembly ... all petitions, respectfully addressed, should be respectfully received

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<sup>43</sup> “Report of the Select Committee, to Which was Referred Petitions and Memorials Relating to the Disabilities of Persons of Color,” 3 March, 1842, *ibid*, 91-92.

<sup>44</sup> “Report of the Minority of the Select Committee upon the Subject of the Laws Relative to the People of Color,” 18 January 1845, *ibid*, 95-96.

and considered.” Furthermore, although the 1842 committee failed to advocate the repeal of the Black Laws, it also criticized supporters of stricter policies toward African Americans. Fearing that radical abolitionists on one hand and conservative factions on another would lead to public controversy, the committee recommended that “the counsel of cool and discreet heads ... lovers of peace and yet friends of humanity, should be sought and pursued.”<sup>45</sup>

### **Salmon P. Chase and the Free Soil Moment in Ohio**

Most historians of antebellum Ohio have described the so-called “Compromise of 1849,” which repealed several of the restrictive policies toward African Americans, as a moment of political contingency. Indeed, the aftermath of Ohio’s 1848 state elections left neither the Democratic nor the Whig Party with a clear majority in the state legislature, and the Free Soil Party, though a very small minority swung the balance of political power.<sup>46</sup> Furthermore, the 1851 Ohio Constitutional Convention failed to repeal voting restrictions on African Americans.<sup>47</sup> Still, Ohio’s political landscape during the late 1840s and early 1850s was in the midst of a much broader transition. For evidence of this, we need only return to the example of one of Ohio’s leading political figures during the antebellum era, Salmon P. Chase.

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<sup>45</sup> “Report of the Select Committee, to Which was Referred Petitions and Memorials Relating to the Disabilities of Persons of Color,” 3 March, 1842, in *Ibid.*, 88, 93.

<sup>46</sup> For a detailed account of the events leading up to and including the 1849 repeal of the black laws, see: Middleton, 153-156; Malvin, 67.

<sup>47</sup> In particular, the Constitution of 1851 reasserted that eligibility for the militia be limited exclusively to white males. See “Constitution of the State of Ohio, 1851,” Article V, Section 1, Article IX, Section 1, <http://www.ohiohistory.org/online/doc/ohgovernment/constitution/cnst1851.html>.

The quintessential moderate, Chase's political career developed alongside, and at times within, the Liberty Party, and its successor, the Free Soil Party, the first manifestations of anti-slavery in partisan politics. While nationally, the Liberty and Free Soil Parties remained on the fringes, garnering little success, in Ohio they became more viable players on the political landscape by the late 1840s. The irony in this, however, is that during its formative years, the Ohio Anti-Slavery Society rejected party politics. At its annual meeting of 1837, Anti-Slavery Society officials argued "that it is time for the abolitionists in Ohio to relinquish *all party* attachments, by which they have been heretofore actuated in politics, and to act with a single view to ... the *equal rights of all*."<sup>48</sup> Inherent within this message was the argument that political involvement would likely undermine the anti-slavery and reform movement. Nevertheless, by the early 1840s, with the rise of the Liberty Party, white print organs like *The Philanthropist* had become increasingly dominated by the political anti-slavery movement. In his study on the origins of the Republican Party, Eric Foner further implicates Chase as a moderate figure within a Liberty Party that included a radical abolitionist strain. In part, Foner argues, this originated from Chase's distinction between abolition, which called for an immediate end to slavery based on moral grounds, and anti-slavery, which sought first to remove the proslavery interests from politics based on constitutional arguments.<sup>49</sup>

Chase initially held views on anti-slavery and equal rights that were far from radical. Nevertheless, he supported the abolitionists' right to participate within civic space, even as he attempted to distance himself from the movement. After an 1836 anti-

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<sup>48</sup> "Report of the Second Anniversary of the Ohio Anti-Slavery Society," Mount Pleasant, Ohio, 27 April, 1837, p. 13, Samuel J. May Anti-Slavery Collection.

<sup>49</sup> Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (New York: Oxford University Press, 1970), 80-82.

abolitionist mob destroyed *The Philanthropist*'s printing press and threatened the life of its first editor, James Birney, Chase took occasion to comment on the implications of this violence.<sup>50</sup> Though calling the abolitionist sentiments of the paper "obnoxious" and disavowing himself from all association with *The Philanthropist*, Chase stated that he regarded "all the consequences of their publications, as evils comparatively light, when contrasted with the evils produced by the prevalence of the mob spirit."<sup>51</sup>

In an 1837 case in which he defended the rights of a runaway slave, much of the groundwork was laid for Chase's legal and political career on the subject of race. By repeatedly coming to the defense of African Americans, Chase forged longstanding ties between himself and Ohio's black community. The initial case involved Matilda Lawrence in the Hamilton County Court of Common Pleas. According to Larkin Lawrence, a Missouri man who claimed to own her, Matilda had escaped his custody and fled to Ohio. In her defense, Chase argued that slavery was possible only where the positive force of law sustained it. The moment Matilda entered Ohio, where slavery was expressly prohibited she became free, regardless of her prior status. Chase further argued that Matilda had been unjustly denied habeas corpus and that Matilda's racial background had predisposed the authorities against awarding her due process. Unfortunately for Matilda, the court sided with her alleged owner, Larkin Lawrence, and ruled that enslaved persons, when entering Ohio without or even with their owner's consent, were

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<sup>50</sup> Stephen Ellingson, "Understanding the Dialectic of Discourse and Collective Action: Public Debate and Rioting in Antebellum Cincinnati," in *The Journal of Sociology*, vol. 101, no. 1 (January, 1995), pp. 100-144.

<sup>51</sup> Salmon P. Chase to the *Cincinnati Daily Gazette*, 4 August, 1836, in *The Salmon P. Chase Papers: Correspondence, 1823-1857*, ed. John Niven, (Kent, OH: Kent State University Press, 1994, 5 vols., vol. II), 62-63; For further information of the attack against *The Philanthropist*, see also: "Narrative of the Late Riotous Proceedings against the Liberty of the Press in Cincinnati", Ohio Anti-Slavery Society, 1836, SJMA-SC, accessed 03/08/2008.



not entitled to freedom.<sup>52</sup> While this case centered on whether authorities from slave states could pursue runaways in free jurisdictions, Chase's argument had direct implications for Ohio free blacks. Had the court ruled in Matilda's favor, Ohio African Americans could be assured safety from the risk of capture on suspicion of being runaway slaves and guaranteed the protection of due process. Chase suggested, perhaps facetiously, that "the time has not yet arrived in Ohio, when color implies either crime or bondage" yet he worried that the decision against Matilda would undermine Ohio's tradition of anti-slavery and equal rights.<sup>53</sup>

As Chase climbed the ranks within Ohio state politics, he found himself increasingly associated with the Liberty Party. Despite having represented a number of fugitive slaves in his legal career, his full espousal of abolition took years to develop.<sup>54</sup> A short, but tantalizing entry appears in his 1843 journal which suggests that in order for the Liberty Party to achieve its full political potential, it needed to distinguish itself from abolitionists.<sup>55</sup> Although this private journal remark appeared early in Chase's political career, it nonetheless encapsulated the dilemma of many anti-slavery moderates. Though opposed to slavery's political excesses, Chase feared an immediate abolitionist stance as radical and politically disastrous.

By the late 1840s, Chase viewed political anti-slavery with increased sympathy. In one letter to John Hale, a leading figure in the Liberty Party, Chase suggested the possibility for collaboration with northern elements of the Democratic Party based on

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<sup>52</sup> "Speech of Salmon P. Chase, in the case of the Colored Woman, Matilda," 11 March, 1837, SJMA-SC, accessed 4/21/2008, 7-8; *The Black Laws of the Old Northwest*, 148.

<sup>53</sup> "Speech of Salmon P. Chase," SJMA-SC, accessed 4/21/2008, 11, 27-28, 35.

<sup>54</sup> Wilentz, *The Rise of American Democracy*, 479.

<sup>55</sup> Salmon P. Chase Journal Entry, 26 June, 1843, in *The Salmon P. Chase Papers: Journals, 1829-1872*, ed. John Niven, (Kent, OH: Kent State University Press, 1993, 5 vols., vol. I), 167.

shared ideological sentiments, which when called upon could promote the political anti-slavery movement. While conceding that the Whig Party was home to more abolitionists, Chase nonetheless asserted that the principles of the Democratic Party would foster real action against slavery. “If we can once get the Democratic Party in *motion*,” he suggested to Hale, “regarding the overthrow of slavery as a legitimate & necessary result of its principles, I would have no apprehension at all of the work being laid aside.” Chase also expressed to Hale his doubts about the Liberty Party’s further prospects of success, and suggested that those with anti-slavery views would be best positioned to challenge slavery from within, rather than outside of, the dominant political party system.<sup>56</sup> As historian Jonathan Earle points out in his study of the Jacksonian anti-slavery movement, Chase was the leading figure within the Ohio Liberty and Free Soil Parties, both of which saw the advantages of fighting slavery and southern domination by reaching out to northern Democrats.<sup>57</sup>

In many ways, Chase’s ideas concerning political coalition-building were central to the overturning of several of the Black Laws. The repeal, which struck from the books both the bond requirement and the restriction of black testimony, as well as provided equal funding for the creation of separate black schools, combined both Chase’s own aspirations for political power and an idealistic commitment to reform.<sup>58</sup> With the emergence of the Free Soil Party in the election of 1848 as a small but pivotal faction

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<sup>56</sup> Chase to John Parker Hale, 12 May, 1847, in *Chase Papers: Correspondence*, 153.

<sup>57</sup> Jonathan H. Earle, *Jacksonian Antislavery & the Politics of Free Soil, 1824-1854*, (Chapel Hill: University of North Carolina Press, 2004), 144-162.

<sup>58</sup> *The Black Laws of the Old Northwest*, 38-41; Middleton, *The Black Laws*, 151-157. It is important to note that while the 1849 compromise offered state support for the establishment of black schools, it still provided that they be funded exclusively with the support of black taxes contributions. This continued distinction in funding remained in place until the educational system was further revised in 1853.

within Ohio party politics, the question of which party would control the legislature was thrown into jeopardy. With neither the Whigs nor the Democrats holding a majority, establishing a coalition with the fledgling Free Soilers was of paramount importance. Given Chase's earlier statements about the potential for party collaboration, it should come as no surprise that he was among the Free Soil movement's leading advocates pushing for reform in the chaos of 1848. Ohio Democrats, despite their erstwhile opposition to black civil rights, welcomed the potential for bi-partisan collaboration in return for control of the Ohio Assembly. Moreover, a schism among Ohio's Whigs between racial conservatives and those sympathetic to the political abolitionist movement only enhanced the opportunities a coalition might offer.<sup>59</sup>

Chase's role as a political mastermind, combined with his principled opposition to the Black Laws, cannot be overstated. Although Middleton and other historians have focused generally on the political union between Democrats and Free Soilers as the primary factor behind the reforms of 1849, the bargain for power in the legislature did not compromise the movement to repeal the Black Laws. As one of the leading architects of the bi-partisan union, Chase's stance on Ohio's Black Laws also coincided with his increasingly anti-slavery position.<sup>60</sup> During early 1849, just as Chase was vying to represent Ohio in the United States Senate, he also worked to push through the repeal of the Black Laws. In one letter to Free Soiler John Morse, whose vote later proved pivotal in repealing the Black Laws, Chase remarked that "the Legislature which repeals the

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<sup>59</sup> Stephen Maizlish, *The Triumph of Sectionalism: The Transformation of Ohio Politics, 1844-1856* (Kent: Kent State University Press, 1983). 99-120.

<sup>60</sup> Chase to John F. Morse, 19 January, 1848, in *Chase Papers: Correspondence*, 216.

Black Laws ... will not soon be forgotten in the History of the State.”<sup>61</sup> In addition, Morse and fellow Free Soil reformer Norton Townshend were personally devoted to repealing the Black Laws, and would likely not have supported the Democrats if the issue was ever in doubt.<sup>62</sup>

Shortly after the repeal of the Black Laws, Chase, by then a Free Soil United States Senator, commented in a letter to the progressive Whig Ohio Congressman Joshua Giddings that the success of his party hinged upon its ability to work with the Democrats.<sup>63</sup> If they had not, he suggested “the Black Laws would have remained unrepealed and no statute for securing personal liberty could have been enacted. These considerations were enough for me.”<sup>64</sup> In another letter to Giddings, Chase went so far as to call opponents of the repeal “negrophobists.”<sup>65</sup> Clearly Chase was concerned about his own political fortunes and those of the Free Soil Party, but this suggests a very real commitment to the basic interests of Ohio’s African Americans. Although it would be inaccurate to suggest he believed in full racial equality, Chase’s personal views toward African Americans imply a willingness to protect and even promote basic civil rights for black Ohioans. Furthermore, Middleton argues that Chase’s growing anti-slavery sentiment was an issue on which he refused to compromise, even in the midst of his 1848 senatorial campaign.<sup>66</sup> Finally, as one historian of antebellum Ohio has noted, Chase’s election to the senate, brought about through Free Soil collaboration with Democratic

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<sup>61</sup> Vernon L. Volpe, *Forlorn Hope of Freedom: The Liberty Party in the Old Northwest, 1838-1848*, 142.

<sup>62</sup> Maizlish, 138.

<sup>63</sup> Wilentz, 631.

<sup>64</sup> Chase to Joshua R. Giddings, 6 March, 1849, in *Chase Papers: Correspondence*, 234.

<sup>65</sup> Chase to Giddings, 7 November, 1849, Niven, *Correspondence*, 261.

<sup>66</sup> Middleton, *The Black Laws*, 153.

legislators, hinged upon the passage of the repeal of the Black Laws.<sup>67</sup> Clearly, principles, and not just politics, were at work.

## **Conclusion**

Even after the partial repeal of the Black Laws in 1849, African Americans called for further reforms. In a Columbus speech, for example, African-American orator John I. Gaines took the occasion to praise the Liberty Party's strong anti-slavery stance. He also praised the Buffalo, New York Free Soil Convention of 1848, which attracted members of every political affiliation, including "a little sparkling of Ohio Whiggery in the person of the incorrigible and fearless [Joshua] Giddings."<sup>68</sup> Nevertheless, African Americans tempered their praise for legal reforms with reminders that racial prejudices still dominated the political and civic landscape of Ohio. In his Cincinnati speech, black orator J. H. Perkins decried the unequal treatment and legal discrimination under which African Americans suffered, despite their contributions of military service in the American Revolution and the War of 1812. Yet Perkins concluded with a forceful assertion of black equality. He pointed out that African civilizations had been credited with some the greatest achievements in history. "If our people do exhibit a degree of depravity and ignorance, charge it not to their stupor of mind or idiocy of soul," Perkins remarked, "but charge it to your oppressive laws that would extinguish (but thanks unto

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<sup>67</sup> Maizlish, "Ohio and the Rise of Sectional Politics," in *The Pursuit of Public Power: Political Culture in Ohio, 1787-1861*, ed. Jeffrey P. Brown and Andrew R.L. Cayton (Kent, OH: Kent State University Press, 1994), 132.

<sup>68</sup> John I. Gaines, "Oration, Delivered on the First of August, 1849, Before the Colored Citizens of Columbus, Ohio," 6, 8.

God, they cannot) the last spark of manly virtue that dwells within us.”<sup>69</sup> Perkins’s speech thus effectively combined the important strains of critique against Ohio’s policies toward African Americans. On the one hand, he charged those who accused blacks of being unworthy of full citizenship with being ignorant of their achievements and contributions to society. On the other hand, Perkins, while theoretically conceding the possibility of some examples of black debasement, blamed this phenomena not on African-American inferiority, but on state laws rooted in white prejudice.

Between the late 1820s and the repeal of some of the Black Laws, Ohio and its African-American communities had undergone significant political changes. Racist politicians and restrictive policies still remained in place, but Ohio’s legal and political attitudes toward African Americans had undoubtedly improved.<sup>70</sup> The maturation of the Ohio black community during the 1830s and 1840s was essential to African Americans’ social and political elevation. By 1850, Ohio blacks could claim important advancements in that regard. With sectional relations becoming increasingly strained, the issues surrounding race in Ohio took on national implications. Ohio blacks would need to utilize the full range of resources at their disposal from both within the African-American community and through their relationships with white allies in order to navigate the racial and political crises of the 1850s.

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<sup>69</sup> J.H. Perkins, “Oration, Delivered on the First of August, 1849, Before the Colored Citizens of Cincinnati,” 21, 24-25.

<sup>70</sup> Middleton, *The Black Laws*, 118.

### **CHAPTER THREE: POLITICAL ACTIVISM AND NATIONAL POLITICS, 1850-1860**

Prior to 1850, Ohio African Americans' focused their political efforts on overturning the Black Laws and improving their civic and social standing within the state. In a period was marked by both successes and failures, Ohio free blacks had developed an acute sense of political awareness that fostered their engagement with white political leaders and the state's political institutions. These achievements laid an important foundation for African Americans to pursue further legal and political reform. Indeed, while repeals of 1849 had been a watershed for African Americans in Ohio, with the exception of those who benefited from the policy of visible admixture, blacks still lacked the right to vote and many remained politically marginalized. Black Ohioans spent considerable energy in the 1850s attempting to remove this imposing political barrier.

Besides state issues, Ohio blacks and their white allies also faced the national question of slavery with renewed urgency. With the passage of the Fugitive Slave Act of 1850, the racial climate of both Ohio and the entire nation took on an entirely new dynamic. Free African Americans in the North had to contend with not only the racial hostility they faced from northern whites, but the possibility of illegal capture and enslavement from southern slave catchers. Living on the border of two slave states, Ohio blacks were perhaps as keenly sensitive to this challenge as any segment of the northern

African American population. Yet while the Fugitive Slave Law posed a serious threat to the safety and freedom of African Americans in Ohio, it did have one major unintended consequence. After 1851, many white Ohioans became increasingly sensitive to protecting the security and some basic rights of African Americans in the state. This reaction resulted as much from a reluctance to commit manpower and resources to assisting slavery as it did from benevolence for African Americans. Still, the increased anti-slavery sentiment among white Ohioans marked a dramatic shift from the time when Ohio itself had passed an accomodationist fugitive slave law of its own. While not fully affording Ohio free blacks with full citizenship, the attitude of the state's political climate had changed considerably from the 1820s and 1830s. By capitalizing on the emergence of white anti-slavery and anti-slave power sentiment in Ohio, African Americans breached an opening within state politics that they could exploit and thereby draw attention to their agenda.

### **Reform Thwarted? The Constitutional Convention of 1850-51**

Despite the repeals of 1849, state law still denied black Ohioans the right to vote and limited their participation in a number of key areas. The Black Convention of 1851 urged continued reform, petitioning Ohio's sitting Constitutional Convention to eliminate racial restriction on voting. Undoubtedly seeing 1851 as an important moment to follow through on the reforms of 1849, Ohio's African Americans urged the Constitutional Convention to "hear our cause." Articulating their claims of citizenship, not only in Ohio but also the United States, the Black Convention demanded the right of suffrage. Failure to recognize African American claims to citizenship and the right to vote would amount



to a gross violation of national principles.<sup>1</sup> Frederick Douglass, writing in *The North Star*, lauded black Ohioans for their efforts to achieve the franchise, but pessimistically surmised that the convention was unlikely to extend African Americans the right to vote.<sup>2</sup> Douglass' assessment proved correct: many of the same restrictions remained in place in the 1851 Ohio Constitution.

Although voting incited the most divisive debates over race, other topics also spurred the controversy. The Convention's most direct contact with issues of race and policy emerged from petitions. On Monday, 20 May 1850, Friend Cook, a delegate from Portage County (in the racially progressive Western Reserve region of the state), presented a petition "asking that the new constitution may accord to all the members of our commonwealth, equal rights, political and social, without regard to sex or color." Upon its presentation, delegate William Sawyer of Auglaize County (in the West Central region of Ohio) offered his objections to this petition and suggested that consideration of petitions of this nature was a waste of time, and the Convention should reject similar petitions in the future.<sup>3</sup>

This challenge reflected wider debates within the Convention with respect to continued resistance to improving the civic and political standing of Ohio's African Americans. An earlier petition, demanding equal rights without racial distinction revealed both the hotly contested, as well as nuanced, nature over the role of race in politics.

Sawyer, perhaps the most outspoken opponent of extending equal rights to African

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<sup>1</sup> Ohio State Convention of Colored Citizens 1851, "Address to the Constitutional Convention of the State of Ohio, now Assembled," 1851, in *Proceedings of the Black State Conventions*, 270.

<sup>2</sup> "Right of Suffrage in Ohio," *The North Star*, 13 June, 1850.

<sup>3</sup> Ohio Convention Debates, Monday, 20 May, 1850, *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Ohio, 1850-51* (Columbus: S. Medary, Printer to the Convention, 1851, 2 vols., v. I), 107.

Americans, suggested that the Convention had no right to even consider political representation for black residents of Ohio. He suggested that blacks had every right to hold public office and participate within the political arena—just not in the United States alongside whites. In an interpretation of the Declaration of Independence that was, Sawyer asserted that “These United States ... were designed by the God of Heaven to be governed and inhabited by the Anglo Saxon race and by them alone.” If colonized in Liberia, the concept of equal rights would extend to Africans in principle, but for practical purposes, the founders of the American nation intended political equality to apply exclusively to whites.<sup>4</sup>

Yet Sawyer’s objections to African American equality extended beyond the oblique intentions of the founding fathers. He argued that “negroes were a separate and distinct race and had not those privileges.” Sawyer admitted that he detested slavery, but for reasons far different than most would expect. Instead of bemoaning the ill-effects slavery had on African Americans, Sawyer asserted it was a curse upon whites. On the whole, slavery had been “productive of good to the negro,” even suggesting that its development had been Providential in benefitting “that race of men.”<sup>5</sup> In a later session, concerning the question of continued access of African American children to public schools, Sawyer praised the recent passage of the Fugitive Slave Law of 1850 as an effective means of deterring black migration into Ohio. If granted continued educational

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<sup>4</sup> Ohio Convention Debates, Monday 13 May, 1850, *Reports and Proceedings*, 56.

<sup>5</sup> Ohio Convention Debates, Monday 13 May, 1850, *Reports and Proceedings*, 57.

benefits, he warned, African Americans would flood into the state, causing serious problems for the state's white residents.<sup>6</sup>

While several other members of the convention responded that they agreed with Sawyer's positions in principle, many opposed his objections to equal rights petitions as inefficient to the proceedings, and argued that they could be handled effectively within the appropriate committees. Another member further suggested that while such petitions reflected the views of only a small minority of Ohio citizens, respectful petitioners "had a right to be heard on the floor of this Convention ... and if they thought it proper to send it to him ... he would present it." In the end, the votes in favor of receiving equal rights petitions carried the day by an overwhelming margin of 101 to 2. While few members suggested that race should be thrown out in determining civil and political rights, nearly all were willing to recognize the freedom of African Americans and their supporters to express their concerns within the formally recognized setting of the Convention. Finally, when placed in the broader context of antebellum politics, many northerners held the petition as a sacred birthright. Any effort to restrict it, therefore, would have been met with widespread resistance. Sawyer's views, though forceful, were by 1851, largely marginal<sup>7</sup>

### **Continued Activism in Ohio Politics**

While the 1850s provided Ohio African Americans with an entirely new set of issues and challenges arising from the revised Fugitive Slave Law, they nonetheless

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<sup>6</sup> Ohio Convention Debates, Wednesday 4 December, 1850, *Reports and Proceedings*, vol. II, 11-12.

<sup>7</sup> Ohio Convention Debates, Monday 13 May, 1850, *Reports and Proceedings*, 57-59.

grappled with lingering civil and political rights questions. Indeed, while the 1849 repeal of several of Ohio's Black Laws had been a notable victory, African Americans were still denied the franchise, lacked equal access to economic opportunities, and often faced lingering racial hostility from white neighbors. Much of the Ohio black community's efforts during the 1850s centered on further pressuring the state government for continued legal and civic reforms. In addition, African American leaders also sought to address concerns and issues uniquely their own. While improving educational conditions for black children and advocating for the right to vote defined the African American community's relations with state government, blacks themselves continued to debate issues ranging from colonization to how they should define themselves in relation to white society.

Although the 1849 compromise was supposed to have settled the question of school policy on the question of race, problems persisted. Because school policy was ultimately a matter of local control, enforcing the 1849 law occasionally proved difficult. One example of the drawbacks of school policy occurred in 1850 when Cincinnati officials collected taxes from African Americans for school purposes, but failed to distribute them appropriately. Litigation ensued and shortly thereafter the Ohio Supreme Court found that the Cincinnati officials had acted unlawfully and issued a writ of mandamus against the city, commanding it to comply with the 1849 school law.<sup>8</sup> An 1852 resolution passed at the state Convention of Colored Persons found that the 1849 compromise, which was intended to provide black children great access to public schools,

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<sup>8</sup>Selected Cases, *State v. Cincinnati*, in Middleton, *The Black Laws of the Old Northwest*, 151.

had been “generally misunderstood ... [and] notoriously perverted; to the great injury of the cause of education among us, thus defeating the object of the framers of that act.”<sup>9</sup>

Nevertheless, Ohio’s educational policymakers had shown signs of progress on the matter of race, and this was something not lost to African Americans. In 1851, the state Black Convention noted “we are grateful for the school privileges we enjoy.” Still, undoubtedly sensitive to the whims of white politicians, the resolution continued “we do hope that our white fellow citizens will not so much degrade us as to take away from us this great means of elevation.”<sup>10</sup> In 1852, the black convention seized upon the Ohio Supreme Court decision that had ruled in their favor in the Cincinnati School District case. The Court ruled that the 1849 school act “places colored youth, in Ohio, upon an equal footing with white youth ... and if colored youth in any district, are excluded from schools for white youth ... they are entitled to share pro rata with white youth in the common school funds.” As such, the Black Convention urged that the decision be “placed before the people of the State, that they might be guided by it in the formation of School Districts.”<sup>11</sup> This action indicates the importance of the courts in rendering sympathetic decisions for African Americans. It also demonstrated the ways in which blacks attempted to use legal decisions to influence policy changes.

Colonization, even for those African Americans who remained in Ohio, continued to draw considerable scrutiny as a possible alternative to the disadvantages facing free blacks. One of the most vocal proponents of self-determined migration, that is

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<sup>9</sup> Proceedings of the Convention of the Colored Freemen of Ohio, Held in Cincinnati,” 14-17, 19 January, 1852, in *Proceedings of the Black State Conventions* 281.

<sup>10</sup> “Minutes of the State Convention of the Colored Citizens of Ohio, Convened in Columbus,” 15-18 January, 1851, Ibid, 267-268.

<sup>11</sup> “Proceedings of the Convention of the Colored Freemen of Ohio, Held in Cincinnati,” 14-17, 19 January, 1852, Ibid, 281

immigration to areas outside of white control independent of the American Colonization Society, was H. Ford Douglass (no known relation to Frederick Douglass), a frequent delegate to Ohio's state black conventions. In the 1851 convention Douglass delivered a speech in which he attacked the United States Constitution as explicitly proslavery, and blamed it for many of the wrongs done against African Americans.<sup>12</sup> Douglass also chaired the 1854 National Emigration Convention of Colored People, held in Cleveland. The Convention took a harshly critical attitude toward the United States government, asserting that the races were essentially antagonistic and could not co-exist on an equal footing.<sup>13</sup> In a speech delivered before the convention, Douglass sharply criticized John Mercer Langston, a rising young star in Ohio's African American community skeptical of emigration. He criticized Langston for taking the position of political expediency, rather than that of true conviction, and accused him and Frederick Douglass of ignorance to the real concerns of African Americans in the United States.<sup>14</sup>

Despite the sharp rhetoric, many Ohio African Americans rejected the emigrationists' pleas to relocate blacks to regions outside of white control. In response to H. Ford Douglass' remarks at the Ohio black conventions, William Howard Day and Charles H. Langston, brother of John Mercer Langston, strongly opposed adopting a resolution favorable to emigration. Both pointed out that it was not the Constitution, but rather the government under the sway of self-interested politicians, that had taken a proslavery stance. Moreover, Day and Langston saw emigration as both an abandonment

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<sup>12</sup> "Minutes of the State Convention of Colored Citizens," 1851, Ibid, 261-262.

<sup>13</sup> See "Proceedings of the National Emigration Convention of Colored People," Cleveland, Ohio 24-26 August 1854, particularly "Report on the Political Destiny of the Colored Race," Samuel J. May Anti-Slavery Collection, Cornell, accessed 5 July, 2008.

<sup>14</sup> "Speech of H. Ford Douglass, In Reply to Mr. John M. Langston before the Emigration Convention," Cleveland, 27 August, 1854, SJMA-SC, accessed 5 July, 2008.

of the anti-slavery cause, as well as a rejection of the tangible progress being made by free blacks. They reasoned that if free blacks left the United States, the enslaved would lose one of their most important allies. Furthermore, leaving at a time in which free blacks were beginning to achieve tangible advancements seemed to defy good sense.<sup>15</sup>

These sentiments were shared by the most influential African American leader of the antebellum era, Frederick Douglass. Observing from Rochester, NY, Douglass published an article in his paper entitled “Arguments, Pro and Con, on the Call for a National Emigration Convention.” While *Frederick Douglass’ Paper* included pieces written by sympathizers of the movement, Douglass himself came out in strong opposition to the Emigration Convention. He argued that the motives for calling the Emigration Convention were “uncalled for, unwise, unfortunate, and premature.” Douglass further predicted that “our enemies will see in this movement, a cause for rejoicing.” He saw the Emigration Convention as a major setback to free black efforts in America, especially “after the manly position assumed by the National Convention [of African Americans] held in this city.”<sup>16</sup>

While school policy and colonization were hotly debated subjects within the African American community, no issue within Ohio politics eclipsed that of the importance of the right to vote. Even after the 1850-1851 Constitutional Convention failed to grant African Americans suffrage, Ohio’s black leadership continued to push for the elective franchise. Throughout the 1850s, Ohio’s black convention movement

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<sup>15</sup> “Minutes of the State Convention of Colored Citizens,” 1851, in *Proceedings of the Black State Conventions*, 262-263.

<sup>16</sup> “Arguments Pro and Con, on the Call for a National Emigration Convention,” SJMA-SC, accessed electronically, on 5 July, 2008.

repeatedly petitioned politicians for the right to vote, pointing out the inconsistencies of a suffrage policy built around notions of race.<sup>17</sup>

Despite the calls for a constitutional amendment guaranteeing the right to vote, not all persons with at least some African blood were denied access to the ballot box. As a result of the Ohio Supreme Court's decision in *Thacker v. Hawk*, in which the court rejected the interpretation that any black ancestry disqualified a person from voting, some people of mixed racial backgrounds actually enjoyed suffrage rights. At the 1850 black convention, William Howard Day of Cleveland, who would become the future editor of the black newspaper *Aliened American* noted that "the colored people in [his] own town were able to control elections." Furthermore, in a tacit political endorsement, Day remarked that "men now place '*Free Soil*' over the heads of their papers to secure their patronage," and interpreted these events as a sign of a "good time coming." Apparently the convention agreed with Day's position, as it passed unanimously his resolution on the matter.<sup>18</sup> This point is crucial not only because it indicates a significant achievement in African American efforts to gain the franchise, it also further highlights the role black leaders played in pushing their initiatives within Ohio's political circles.

Yet the question of voting, and who within the black community enjoyed the privilege, also elicited tensions among African Americans. In a letter to Frederick Douglass, the black abolitionist James McCune Smith expressed concern that some within the African American community resented those who enjoyed and exercised their right to votes. "Each man feels his peculiar wrong," Smith observed, "but no hundred

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<sup>17</sup> See, *Proceedings of the Black State Conventions*, 274-352.

<sup>18</sup> "Minutes of the State Convention of the Colored Citizens of Ohio, Convened in Columbus," 9-12 January, 1850, *Ibid*, 246.



men together feel precisely the same oppression.” Citing conditions in Ohio, Smith pointed out “Day and Langston vote because they believe it their duty as *men* to avail themselves of all privileges within their reach; [Martin] Delany (a black activist in Pittsburgh) denounces their act, because he is excluded by the very decision which grants them the privilege.”<sup>19</sup>

The issues of black voting rights also permeated state party politics, especially when African Americans were given a seat at the table. By the early 1850s, the Free Soil Party had changed its name to the Free Democratic Party. William Howard Day, a regular member of the annual black state conventions was also a delegate at an 1852 Free Democrat meeting. There he offered a resolution stating that the party would “use all proper means to change the law ... as to give equal privileges to all.” Day introduced this resolution in an effort to gain support for black voting rights. Yet Day’s resolution failed to pass the party’s convention. Writing a letter to the editor that appeared in *The Cleveland Herald*, Day expressed his frustration with the Free Democracy. Citing the Ohio Supreme Court ruling on visible admixture, Day declared, “some of use vote. We mean only to cast that vote for our friends.”<sup>20</sup> This statement simultaneously implied that African American votes could and would make a difference in political contests and questioned whether the Free Democrats were the friends they professed themselves to be.

Despite Day’s setback at the Free Democratic convention, African Americans continued to take a more prominent role within state politics. John Mercer Langston, who had observed firsthand the racial violence of Cincinnati’s 1841 riot as a boy, became an

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<sup>19</sup> “James McCune Smith to Frederick Douglass,” in *The Black Abolitionist Papers*, (vol. IV), 221.

<sup>20</sup> Letter to the Editor, in *The Cleveland Herald*, 15 September 1852.

increasingly active supporter of politicians who advocated black rights. Undoubtedly benefiting from his light-skinned appearance, Langston attended an 1852 Free Democratic convention, even serving as one of the event's speakers, which earned him considerable praise from party supporters. Moreover, Langston's continued agitation led the Free Democrats to adopt a position supportive of black suffrage. Langston also actively supported progressive Ohio politicians on the campaign trail, stumping in 1852 for the re-election of Norton Townshend of Oberlin, who had played an influential role in the 1849 repeal of the Black Laws, and continued to be an active supporter of equal rights. In 1854, Townshend unsuccessfully attempted to allow Langston to address the Ohio General Assembly, leading some legislators to label Townsend the "negro representative."<sup>21</sup> Thus, while the effort of gaining greater concessions progressed slowly, Ohio African Americans nonetheless increasingly found themselves in influential positions and able to force their political allies to take stronger stances on their behalf. Although men like Townshend, who was fully committed to racial equality, were exceptional, the increased visibility of African Americans within the Free Soil and Free Democrat parties indicates willingness by some of Ohio's political insiders to not only advocate for black causes, but also allow African Americans to directly influence party stances from within.

### **Ohio and the Fugitive Slave Crisis**

The passage of the Compromise of 1850 and a much tougher Fugitive Slave Act only heightened the role of northern Border States like Ohio within the growing national

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<sup>21</sup> Cheek and Cheek, *John Mercer Langston and the Fight for Black Freedom, 1829-1865*, 205-235.

context of the sectional conflict. If the Fugitive Slave Act had been approved in 1830, Ohioans would likely have praised its passage as an important measure necessary to keeping African Americans out of the state. Yet within the political context of the 1850s, Ohio's political leaders took a markedly different stance on the matter. The passage of the Fugitive Slave Law ran against the movement within Ohio, albeit slow, to accord African Americans greater civic and judicial rights.<sup>22</sup> Moreover, as David Potter has suggested, the Fugitive Slave Law, more than any other element of the Compromise of 1850, galvanized anti-slavery sentiment in the North. "Cases of mistaken identity and other injustices," Potter remarks, "added to the basic reality that even an undoubted slave in the overt act of running away was a pitiable figure, inspired a great revulsion of in the North."<sup>23</sup> As a northern border state, Ohio occupied a key position on the front lines of the growing sectional conflict.

After the passage of the Fugitive Slave Act of 1850, Ohio experienced a number of highly publicized confrontations over the question of runaway slaves. One of the most highly publicized fugitive slave cases was that of the Peyton Polly family. Polly, his wife, and their eight children were the slaves of David Polly, a farmer in eastern Kentucky. In 1849, David Polly, facing financial distress, put the family up for sale. Fortuitously for Peyton, his brother Douglas, a free black, purchased the family's freedom and subsequently paid off David's lingering debt so as to prevent the re-enslavement of Peyton and his family. Shortly thereafter, Peyton moved his wife and children to Lawrence County, Ohio, just north of the Ohio River. Following David Polly's death,

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<sup>22</sup> Frederick J. Blue and Robert McCormick, "Norton S. Townsend: A Reformer for All Seasons," in *The Pursuit of Public Power: Political Culture in Ohio, 1787-1861*, ed. Jeffrey P. Brown; Andrew R.L. Cayton (Kent, OH: Kent State University Press, 1994), 151.

<sup>23</sup> David M. Potter, *The Impending Crisis, 1848-1861*, (New York: Harper & Row, 1976), 130-131.

however, several of his white family members, led by the ironically named David Justice, became disgruntled over being left out of his will and decided to take matters into their own hands. Organizing a white mob, they ascertained the location of the Polly home in Ohio, and kidnapped Peyton's eight children, dispersing them throughout Kentucky, Virginia, and Ohio.<sup>24</sup>

As news of the case spread, abolitionists quickly pressed Ohio officials to take action. Ohio's outgoing Whig governor, Seabury Ford, demanded that the children be returned to freedom and the kidnappers be delivered up for prosecution in Ohio. Even Ford's successor, Democrat Reuben Wood, demanded justice for the Polly family. In his 1852 State of the State Address, Wood denounced the actions of the kidnappers. In contrast, Wood praised the efforts of the officials who were working to ensure the freedom of the Polly family. He even lauded both Kentuckians and Virginians, "notwithstanding [that] slavery is interwoven with all their institutions and civil relations ... there are ... noble and generous impulses in favor of the colored race, among a large portion of the people, *when the right to freedom is honestly believed to exist.*" In addition to publicly supporting the cause of the Polly family's freedom Wood also used the force of state government in an unsuccessful attempt to capture the kidnappers.<sup>25</sup> Despite the seemingly forceful tone of Wood's rhetoric, his language amounted to a carefully qualified defense of the fugitive slave law. While he rejected attempts to capture those who we free residents of Ohio, Wood said nothing in defense of slaves who had fled to Ohio in search of freedom.

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<sup>24</sup> For a detailed account of the Peyton family's saga, see Middleton, *The Black Laws*, 216-219.

<sup>25</sup> "Affairs of Our Own State: Governor's Message," *The Daily Scioto Gazette*, 8 January, 1852; For additional information on Reuben Wood, see Ohio Governors: Reuben Wood, Online Resource of the Ohio Historical Society.

Despite Wood's actions, however, his praise for Kentucky and Virginia was overly generous and premature, perhaps reflecting an unwillingness to spark tensions between the bordering states and an eagerness to diminish the political implications of the episode. As Stephen Middleton points out, officials from both southern states repeatedly delayed in the legal process to secure freedom for several of the Polly children. While the election of Salmon P. Chase as the first Republican governor of Ohio in 1856 ensured continued support of the Polly children, the reluctance of Kentucky and Virginia officials stifled any signs of progress. Despite two allocations of funding for the legal fees incurred in the case by the legislature, including one authorizing up to one thousand dollars, the courts of Virginia failed to free the children prior to the Civil War. The ultimate fate of the Polly family is unknown. As Middleton points out, the remaining enslaved children would have been inevitably freed as a result of the Civil War, but when and how this occurred is lost to public record.<sup>26</sup>

While Ohio politicians failed to secure the freedom of the Polly children, the case does offer important insights to the state's political culture in relation to the fugitive slave question as well as the rights of free blacks in Ohio. Perhaps most significant was the fact that both the legislative and executive branches of state government repeatedly offered resolutions and financial support for the litigation of the case. Equally impressive was that this political and financial backing was sustained for the better part of a decade. As for the wider implications of the case, the state's support of the Polly children takes on considerable significance. Although they were legitimately freed slaves and legal

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<sup>26</sup> Middleton, *The Black Laws*, 218-219; Ohio Legislature, "Joint Resolution Relative to the Kidnapping of the Polly Family," Approved 10 March, 1860, in *The Black Laws of the Old Northwest*, 32; "An Act Making Appropriations for the Year 1860 and the first Quarter for the year 1861," *The Scioto Gazette*, 15 May 1860.

residents of Ohio, the fact that some southerners still claimed them as chattel forced the Polly family into a precarious situation. That the state government would actively support their claim to freedom, poses a stark contrast to the apathetic and pro-slavery actions taken by Virginia and Kentucky officials involved in the case. Moreover, Ohio's actions demonstrated a sustained commitment to protect the security and freedom of its free black residents, even across state lines. While the Polly case may have been an exceptional one, given the state's earlier attitudes toward both free blacks and runaway slaves, it is unlikely Ohio officials would have supported a similar case with such vigor prior to the 1850s.

Another highly publicized runaway slave case was the so-called "Oberlin-Wellington Rescue" of 1858-59. On September 13, 1858 Anson Dayton, an unsuccessful lawyer and former clerk, and several of his associates captured John Price, a suspected runaway slave with the intent of turning him over to federal marshals. Possibly in retaliation to the racially progressive town of Oberlin, the kidnapping may have served as a political attack on John Mercer Langston, who had unseated Dayton from his position as the local clerk. Whatever the motivations for Price's abduction, when word of his capture spread throughout Oberlin, a contingent of local blacks and whites, including John Mercer Langston's brother Charles, quickly organized in his defense. Upon learning of his location in the nearby town of Wellington, the anti-slavery posse, numbering at least several hundred by some accounts, departed from Oberlin and surrounded the building in which Price was being held. After an intense standoff, the rescuers secured Price's

release, spiriting him away to freedom in an unknown location.<sup>27</sup> This show of anti-slavery force, and particularly the bi-racial element of the rescue, signified that at least in some parts of Ohio, residents were unwilling to accept the outside influence of the slave-power. Moreover, that so many risked their own safety and faced the threat of prosecution in defense of a black person demonstrates the ways in which anti-slavery impulses could combine with efforts to protect the basic rights of African Americans.

### **Anti-Slavery Bears Political Fruit**

While the political debates over race that dominated Ohio's first fifty years of statehood led to results that were at best inconclusive, fallout from the Fugitive Slave Act of 1850 substantially reshaped the questions surrounding race and policy. As white Ohioans more forcefully took up the anti-slavery and anti-slave power mantle during the 1850s, the racial dynamics of Ohio politics increasingly reflected the growing specter of the sectional conflict. Key policy changes included a series of anti-kidnapping laws, as well as several resolutions aimed at reinforcing black civil rights. Each of these was designed to protect Ohio's free black population from kidnapping and enslavement. While the state's early policies had been designed to keep blacks out of Ohio and to limit the rights of those already residing in the state, by the 1850s, official attitudes on race had changed considerably.

Evidence of a wider anti-slavery sentiment in Ohio was also demonstrated within the state's print culture. In the aftermath of the Compromise of 1850, numerous editors

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<sup>27</sup> For a condensed but scintillating account of the Oberlin-Wellington Rescue, see Cheek and Cheek, 316-320.

and politicians throughout the state denounced the new federal policy and urged Ohioans not to comply. *The Ohio Observer*'s editors in the northeastern town of Hudson called the Act "Injustice for the Master's Convenience," and declared "such a law cannot endure scrutiny upon any equitable principles, and will certainly receive the merited abhorrence of the great body of northern freemen."<sup>28</sup> *The Observer* also carried an account from a Pittsburgh newspaper citing the African American community's reaction in that city. According to the article, Pittsburgh's blacks viewed the Fugitive Slave Act as "a mighty and resistless avalanche, burying their hopes and prospects for the future and sweeping away the last vestige of confidence and trust in the protection and justice of American government."<sup>29</sup> *The Cleveland Herald*'s editors argued that the Fugitive Slave Law had gone well beyond what the Constitution allowed of congressional power and further saw it as "directly opposed to what are considered in the North as sacred personal rights, and feeling this, the people of the North will not aid in carrying out the provisions of the law."<sup>30</sup> The importance of these accounts lies not only in their attacks of the Fugitive Slave Law itself, but rather in their recognition that the law would have negative ramifications for free blacks in the North.

State politicians from both sides of the aisle weighed in on the Fugitive Slave Act. In his annual message to the Legislature in December of 1850, Whig governor Seabury Ford took issue with the law because it made slavery a national rather than a state institution. Yet he also invoked a higher law. Ford emphasized the inherent contradiction within the Fugitive Slave Act, pointing out that it "attempts to compel the citizens of a

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<sup>28</sup> "The New Fugitive Slave Bill," *The Ohio Observer*, 30 October, 1850.

<sup>29</sup> "The Fugitive Slave Law," *The Ohio Observer*, 2 October, 1850.

<sup>30</sup> "The Fugitive Slave Law," *The Cleveland Herald*, 30 September, 1850.



free State to aid in the arresting and returning to slavery the man who is only *fleeing for liberty* in the same manner as . . . a man fleeing from justice, charged with the commission of a *high crime and misdemeanor*.”<sup>31</sup> Clearly, the image Ford attempted to invoke was one of sympathy for blacks who sought nothing less than freedom. Even Reuben Wood, Ford’s Democratic successor, attempted to distance himself from a full-throated endorsement of the Fugitive Slave Act. Calling it “objectionable and [politically] expedient” error in legislation, Wood nonetheless urged Ohioans to simply avoid violence, despite their dissatisfaction with the law.<sup>32</sup>

By the mid and late 1850s, Republicans increasingly dominated Ohio politics, and the state took steps to ensure the protection of free blacks. In two acts passed in April 1857, the Republican controlled Ohio General Assembly criminalized attempts to detain free African Americans under false pretenses. Moreover, a new state kidnapping law of 1857 penalized the act of capturing and taking free blacks across state lines with a minimum of three years hard labor.<sup>33</sup> Yet even more powerful was the Assembly’s response to the Dred Scott Case. Filled with the familiar protests against the possibility that slavery would spread into free states, the Senate’s resolution decried Chief Justice Roger Taney’s ruling on African American citizenship. Whereas Taney had claimed that blacks were not citizens and had no rights to sue in American courts, Ohio’s senate strongly challenged this assertion. Instead, their resolution argued, “every free person born within the limits of a state of this union, is a citizen thereof, and to deny to any such

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<sup>31</sup> “Governor’s Message,” *The Daily Scioto Gazette*, 7 December, 1850

<sup>32</sup> “Gov. Wood’s Inaugural,” *The Daily Ohio Statesman*, 17 January, 1851.

<sup>33</sup> Middleton, *The Black Laws*, 246; “An Act to Prevent Slave Holding and Kidnapping in Ohio”; “An Act to Prevent Kidnapping,” both Approved 17 April, 1857, in Middleton *The Black Laws of the Old Northwest*, 30-31.

person the right of suing ... where that right is guaranteed by the constitution ... is a palpable and unwarrantable violation of that sacred document.”<sup>34</sup> This resolution is important because it clearly defined African Americans as citizens, at least within Ohio. The resolution went beyond the reforms of the 1849 compromise and implied that African Americans deserved the same rights of citizenship as those enjoyed by whites. Although this may not have been the intended object of the resolution, it did at least highlight the inconsistencies inherent within the state’s remaining policies on race. These acts and resolutions suggest an increased recognition within Ohio that, even if popular opinion remained opposed to full African American civil equality, their interests within the political realm could not go unnoticed. While Leon Litwack has correctly pointed out that the pre-Civil War Republican Party expressed sentiments that reflected widespread opinions of white supremacy, if antebellum Ohio is an accurate barometer, the North’s views toward free blacks underwent a very real transition in the decades prior to 1860.<sup>35</sup>

The Oberlin-Wellington rescue case also highlighted the political implication of pursuing the anti-slavery/slave power debate for those on both sides of the issue. A huge practical and moral victory for those who assisted John Price, the case’s implications swept well beyond the racially progressive Western Reserve. Not surprisingly, the conservative *Newark Advocate* attempted to label state Republicans with the radical brand. Recognizing that a contingent of conservatives still resided within the party, one *Advocate* editorial nevertheless surmised that this faction was “impotent,” subjugated to

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<sup>34</sup> “Senate Joint Resolution Relative to the Decision of the Dred Scott Case,” Approved 17 April, 1857, in *Ibid*, 23-24.

<sup>35</sup> Litwack, *North of Slavery*, 268-279.

the “higher law” wing of the party, led by Joshua Giddings.<sup>36</sup> *The Daily Cleveland Herald* countered the Democratic leaning *Advocate*’s claim by pointing out that some Democrats had been involved in the rescue. Yet only in the aftermath, the *Herald* argued, did the case become political. Even though “Democrats were the most prominent” among the rescuers, the *Herald* wondered why none had been indicted like those with Republican sympathies.<sup>37</sup> In another instance, the *Herald* published a reported threat from a Democratic newspaper against one of the rescuers. John Mercer Langston, whose own brother was on trial in the case commented that the judge, jurors, and prosecutors were carefully selected loyal Democrats, who would be unlikely to acquit the accused. This tactic of associating the Democratic Party with slavery was a hallmark of the 1850s Republican strategy. As Michael Holt contends, “Republicans won more because of what they were against [the slave power] than because of what they were for.”<sup>38</sup> Whatever their motivations, in the aftermath of the event, many prominent Republicans, including Salmon P. Chase and Joshua Giddings praised the actions of the rescuers. The tangible benefits for anti-slavery politics were also witnessed in the fall elections of 1859, where Republicans retook control of the legislature and strengthened their hold on the governor’s office, after experiencing prior setbacks in 1857.<sup>39</sup>

## Conclusion

During the 1850s, the United States experienced rapidly growing tensions resulting from the sectional crisis. Ohio was no outsider to this acerbic political climate,

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<sup>36</sup> “Joshua R. Giddings and his Lieutenants,” *The Newark Advocate*, 25 May, 1859.

<sup>37</sup> Untitled Articles, *The Daily Cleveland Herald*, 11 December, 1858.

<sup>38</sup> Michael F. Holt, *The Political Crisis of the 1850s* (New York: John Wiley & Sons, 1978), 185.

<sup>39</sup> Cheek and Cheek, *John Mercer Langston and the Fight for Black Freedom*, 339

as it grappled with questions of race and politics. Of all who confronted the challenges of the decade, perhaps no group felt them more acutely than African Americans. With the Fugitive Slave Law of 1850 challenging black freedom in the North like never before, Ohio African Americans in many ways stood on the front lines of the growing national crisis. Still, the decade was not without important benchmarks for Ohio's African American population. Despite the setbacks of the 1850-51 Constitutional Convention, which failed to grant all Ohio blacks suffrage, many with mixed racial background actually enjoyed access to the ballot box. Furthermore, the growth and persistence of the Free Soil and Republican parties in Ohio, whose ranks included some racially progressive members, allowed African Americans to push for greater civic and political rights. Even the Fugitive Slave Law and the Dred Scott case, both widely seen as major setbacks, were not without silver linings for African Americans. Throughout the 1850s, Ohio blacks stood at the forefront of anti-slavery activism. As their own freedom was threatened, Ohio's political leaders repeatedly stepped in to protect the few rights African Americans did enjoy. Thus, while prospects remained uncertain throughout the 1850s, Ohio's racial politics did show clear signs of progress.

## CONCLUSION: OHIO'S RACIAL POLITICS AND THE CIVIL WAR

Ultimately, the most important events reshaping Ohio's racial dynamics were the Civil War and Reconstruction. What Ohio's political leaders had failed to do in nearly six decades of statehood was accomplished in just nine years of national conflict and restoration. Yet it would be incorrect to suggest that Ohioans went to war with this objective in mind. Ironically, during the secession winter of 1860-61, it was an Ohio Republican, Thomas Corwin, who proposed a Constitutional amendment that would have prevented any congressional interference with slavery where it existed.<sup>1</sup> Moreover, one of the war's staunchest critics and the leader of the Copperhead movement, Clement Vallandigham, was himself a leading Ohio Democrat. In some ways, figures like Corwin and Vallandigham may have represented a conservative white backlash against African Americans, particularly just prior to and during the Civil War. Indeed, many white Ohio politicians, attempting to keep the war a matter of national preservation rather than a referendum on the nation's shortcomings on the subject of race, often responded harshly to African Americans. Just as the war began in early 1861, conservative Ohio politicians, some Republicans included, enacted laws prohibiting

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<sup>1</sup> Potter, *The Impending Crisis*, 550-551.

interracial marriage. Moreover, with a surge in the state's African American population, many whites petitioned the legislature to enact laws preventing black immigration, and even for the removal of those already resident in the state.<sup>2</sup>

In this hostile environment, Ohio's black leaders understood that they could benefit politically from the war if they were seen as active and loyal supporters of the Union cause. As early as 1857, the State Convention of Colored Men of Ohio recommended that "the colored people of the State of Ohio ... proceed at once in every town where it is practicable, and where they cannot be enrolled among the whites, to form a military company or companies." The 1857 convention also praised an existing Cincinnati company, the Attuck Blues, signaling it out "that it may live to be of service to our State, our people and country."<sup>3</sup> When war eventually did break out, Ohio's African American leaders actively volunteered their services. Although in many cases they met a chilly response. But with the military necessity that precipitated the Emancipation Proclamation came an increased openness to black military service. John Mercer Langston, who had been urging Ohio politicians to accept African American regiments since the start of the war, took advantage of the creation the black 54<sup>th</sup> Massachusetts, and actively recruited Ohio's blacks to enlist.<sup>4</sup> One account of a speech he gave noted that Langston lectured Ohio African Americans on "the duty of sustaining with life, if needed, the government which has done so much for them."<sup>5</sup> Many African Americans believed they could improve their civic and political condition by engaging in loyal,

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<sup>2</sup> Cheek and Cheek, *John Mercer Langston and the Fight for Black Freedom*, 385.

<sup>3</sup> "Proceedings of the State Convention of Colored Men of the State of Ohio," Columbus, 21-23 January, 1857, in *Proceedings of the Black State Conventions*, 320.

<sup>4</sup> Cheek and Cheek, 383-391.

<sup>5</sup> "The Raising of Colored Troops," *The Daily Cleveland Herald*, 15 May, 1863.

rather than adversarial behavior. Stated otherwise, Langston, and the black enlistees he recruited understood the value of working within the system, rather than against it in order to achieve their long terms goals.

Throughout the state's antebellum history, blacks Ohioans consistently pressed the civil and political issues most important to them. While the goal of this project has not been to tabulate all the public successes and failures that they experienced, as the record of the 1850s demonstrates, blacks had achieved unmistakable legal and political gains. Ohio, which in the 1830s, had passed its own version of the Fugitive Slave Law, was by the 1850s, taking steps to protect its black residents. Other discriminatory laws, including those intended to restrict black migration, deny African Americans the right to testify in court, and receive equal access to state funding for educational purposes, were likewise repealed. In addition, several important court decisions gave some African Americans the right to vote in Ohio and openly challenged the validity of the Black Laws. But perhaps most important were the ways in which African American activists, with some help from sympathetic white abolitionists, directly influenced the wider political dialogue. Although the efforts of the 1840s and 1850s did not always bring about changes in the short term, they nonetheless forced Ohio's political leaders to confront the blatant inconsistencies of the state's attitude toward race.

In some ways, the participation of black soldiers in the Union Army symbolized many of the political struggles that Ohio African Americans pursued in the 1840s and 1850s. Just as the war's outcome failed to fully resolve the nation's racial problems, the 1849 Ohio compromise and the anti-slavery movement of the 1850s did not bring to a close the state's own challenges on the matter of race. Nevertheless, both the Civil War

and the fight to overturn the Black Laws demonstrated the ways in which African Americans could find ways to make their own imprint on the state and national landscapes. Although met with challenges at nearly every turn, Ohio's antebellum and Civil War era black leaders looked for ways to find within the system, a means of political expression that could yield tangible rewards. Thus, despite unrelenting white efforts to exclude African Americans both literally and figuratively from a meaningful place within public life, black Ohioans and abolitionist allies repeatedly demonstrated a commitment to make both their state and their nation a truly participatory democracy.

Ultimately, it would take the jarring experiences of Civil War and Reconstruction to secure black citizenship and greater access to political rights. Still, it would be misguided to dismiss the efforts of free African Americans in places like antebellum Ohio. Rather, that such achievements took place so quickly after the national cataclysm of 1861-1865 indicates that African Americans had made tangible political progress in the North despite institutional exclusion and a political culture that had long been steeped in white supremacy. Even more impressive was the fact that many black Ohioans saw the political process as an effective venue for bringing about real changes in the state's racial policies. Though the political and civic advancements took place slowly during the antebellum era, and were often beset by disappointments, African Americans remained committed to reshaping the politics of race in Ohio society. This commitment, guided and shaped by African American community institutions and alongside the support of progressive abolitionists and forward-thinking politicians enabled black leaders to wield their own agency in ways that influenced the public sphere and challenged the politics of white supremacy. Although Ohio's antebellum legacy will always remain tarnished with



the taint of racism, that need not be the only story future historians examine. Although they were powerful symbols of racial injustice, the Black Laws eventually succumbed to social and political pressure. In some ways, the Civil Rights movement of 1950s and 1960s shared much in common with Ohio's racial activism during the antebellum era. Both movements proved that racial inequality could be challenged by both public and political action. Furthermore, in both case, African Americans played no small role bringing about important changes to the concept of race within the realm of politics and society.

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