

5-2011

"The Africans Have Taken Arkansas": Political Activities of African-American Members of the Arkansas Legislature, 1868-73

Christopher Warren Branam
University of Arkansas, Fayetteville

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“THE AFRICANS HAVE TAKEN ARKANSAS”: POLITICAL
ACTIVITIES OF AFRICAN-AMERICAN MEMBERS OF
THE ARKANSAS LEGISLATURE, 1868-73

“THE AFRICANS HAVE TAKEN ARKANSAS”: POLITICAL ACTIVITIES OF
AFRICAN-AMERICAN MEMBERS OF THE ARKANSAS LEGISLATURE, 1868-73

A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts in History

By

Christopher Warren Branam
California State University, Fresno
Bachelor of Arts in Journalism, 1994

May 2011
University of Arkansas

ABSTRACT

African-American lawmakers in the Arkansas General Assembly during Radical Reconstruction became politically active at a time when the legislature was addressing the most basic issues of public life, such as creating the infrastructure of public education and transportation in the state. They were actively engaged in the work of the legislature. Between 1868 and 1873, they introduced bills that eventually became laws. Arkansas passed two civil rights laws at the behest of African-American lawmakers. Education, law and order, and economic development—issues that reflected the southern Republican agenda that dominated the state’s politics between 1868 and Democratic Redemption in 1874—also drew the interest of black lawmakers, and they proved not to be of a single mind when it came to this program. The black legislators of the three Republican-controlled assemblies enjoyed notable successes. Studying the political activities of the thirty-two African Americans sent to Little Rock during these years not only broadens our understanding of the careers of black officeholders at a crucial moment in southern, African-American and Arkansas history, it also allows us to hear their long-stifled voices.

This thesis is approved for
Recommendation to the
Graduate Council

Thesis Director:

Dr. Patrick G. Williams

Thesis Committee:

Dr. Daniel Sutherland

Dr. Jeannie M. Whyne

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ACKNOWLEDGMENTS

I would like to thank all my professors at the University of Arkansas Department of History for shaping the mind of a budding historian. A few deserve special attention. Patrick Williams was the driving force behind my research and writing. Every page has been shaped by his attention to editorial detail, coupled with his encyclopedic knowledge of political history and historiography. He was encouraging, patient, and kind. He is an editor's editor. Daniel Sutherland was gracious enough to take time out of his busy days to talk about the art of writing. And Jeannie Whayne significantly contributed to my understanding of Arkansas history and the state's African-American history.

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I. INTRODUCTION

On June 10, 1868, an African-American legislator named Anderson L. Rush stood on the floor of the Arkansas House of Representatives and introduced House Bill 65, titled “An act to define the qualifications of jurors.” The bill stated simply, “That all qualified electors of this State, and none other, shall be competent jurors.” The proposed law served two purposes: it guaranteed the state’s newly enfranchised blacks the right to serve on juries, and it excluded the former Confederates disfranchised by Arkansas’s new constitution from the administration of justice. Rush’s bill moved swiftly through the House and on June 15 it passed unanimously, sixty-four to zero.¹ On July 13, 1868, Arkansas governor Powell Clayton, a Pennsylvania native who had come to Arkansas during the Civil War with a Kansas regiment of the Union Army, signed the bill, making it the first law introduced by an African-American legislator in the state’s history.

Despite this distinction, Rush’s service in the Arkansas legislature would quickly be forgotten. In 1920, when African-American sociologist Monroe N. Work published a list of Reconstruction’s black officeholders, he lamented, “American public opinion has been so prejudiced against the Negroes because of their elevation to prominence in southern politics that it has been considered sufficient to destroy their regime and forget it.”² He could have been writing about Arkansas. The state-by-state roster Work published in *The Journal of Negro History*, whose Arkansas section had been submitted

¹ *Journal of the Assembly of the State of Arkansas at Their Seventeenth Session, Begun and Held at the Capitol, in the City of Little Rock, on the Second Day of April, 1868.* (Little Rock: John G. Price, State Printer, 1868): 200.

² Monroe N. Work, Thomas S. Staples, H. A. Wallace, Kelly Miller, Whitefield McKinlay, Samuel E. Lacy, R.L. Smith, and H. R. McIlwaine, “Some Negro Members of Reconstruction Conventions and Legislatures and of Congress,” *The Journal of Negro History* 5 (January 1920): 68.

by Thomas S. Staples, William A. Dunning's Arkansas proconsul and a history professor at Hendrix College in Conway, was woefully incomplete.³ It included just two of the six black legislators who served during the 1868-1869 General Assembly, eleven of the thirteen from 1871, and none for the rest of the era, including 1873, in which twenty blacks served in the legislature.⁴ Staples went on to cite the assessment of the Democratic Party organ, *Arkansas Gazette*, of January 12, 1873: "There are a few men among those colored members who are bright and intelligent, and much superior to some white members, but as a rule, this is not the case."⁵ Staples's own 1923 work, *Reconstruction in Arkansas: 1862-1874*, which became the standard account of the era for several decades, did not cite any accomplishments by African Americans. Even Republican leader Clayton offered scant attention to individual black legislators in his memoir, *The Aftermath of the Civil War, in Arkansas*; although the former governor and U. S. senator from Arkansas did refer often to "negroes" in a general context.⁶

Since Staples, Arkansas's first generation of African-American legislators has emerged from the shadows to some extent. *Freedom's Lawmakers: A Directory of Black Officeholders during Reconstruction*, historian Eric Foner's follow-up to his epic study of

³ Staples studied at Columbia University in New York under Dunning, whose influential 1907 study, *Reconstruction: Political and Economic*, argued that the time between 1865 and 1877 was the lowest point in the history of the South, and the villains of the period were Republicans who had empowered ignorant African Americans. The racist assumptions of the Dunning school were long ago discredited by the work of historians such as John Hope Franklin, Kenneth Stampp, C. Vann Woodward, Leon Litwack, and Eric Foner.

⁴ Monroe Work, "Some Negro Members of Reconstruction Conventions and Legislatures and of Congress," 68.

⁵ *Ibid.*, 68.

⁶ Thomas S. Staples, *Reconstruction in Arkansas: 1862-1874* (New York: Columbia University Press, 1923); Powell Clayton, *The Aftermath of the Civil War, in Arkansas* (1915; repr. New York: Neal Publishing Company, 1969).

the era, included a more complete listing, but even it misidentified Rush as “A. L. Bush.”⁷ Arkansas historians Willard B. Gatewood, Jr., Tom W. Dillard, and Blake J. Wintory have performed much-needed spadework in uncovering the basic biographical information of the state’s black legislators—such as their states of birth, property holdings and party affiliations.⁸ Recent syntheses of Arkansas’s experience of the Civil War and Reconstruction by Carl H. Moneyhon⁹ and Thomas A. DeBlack acknowledge the significance of black officeholding. And the best study of black life in post-emancipation Arkansas, John W. Graves’s *Town and Country: Race Relations in an Urban-Rural Context, Arkansas, 1865-1905*, devotes several chapters to Reconstruction politics, considering the black presence at the 1868 constitutional convention and the impact of Reconstruction government on African Americans.¹⁰ But none of these admirable studies carefully trace the work of African-American legislators in the General Assembly through official journals and newspaper coverage, showing the issues on which they were like-minded or outspoken, and in which cases they divided among themselves. This is a subject that needs to be addressed. As Foner observes, “black participation in

⁷ Eric Foner, *Freedom’s Lawmakers: A Directory of Black Officeholders during Reconstruction* (New York: Oxford University Press, 1993): 33.

⁸ Willard B. Gatewood, Jr., “Negro Legislators in Arkansas, 1891: A Document,” *Arkansas Historical Quarterly* 31 (Autumn 1972): 220-233; Gatewood, “Arkansas Negroes in the 1890s: Documents,” *ibid.* 26 (Autumn 1967): 293-325; Tom W. Dillard Black Arkansiana Materials, Butler Center for Arkansas Studies, Central Arkansas Library System, Little Rock; Blake J. Wintory, “Arkansas Legislators in the Arkansas General Assembly, 1868-1893,” *Arkansas Historical Quarterly* 65 (Winter 2006): 385-434; Wintory, “William Hines Furbush: African-American Carpetbagger, Republican, Fusionist, and Democrat,” *Arkansas Historical Quarterly* 63 (Summer 2004): 107-166.

⁹ Carl H. Moneyhon, *The Impact of the Civil War and Reconstruction on Arkansas: Persistence in the Midst of Ruin* (Baton Rouge and London: Louisiana State University Press, 1994).

¹⁰ John W. Graves, Chapters 2, 3, and 4 in *Town and Country: Race Relations in an Urban-Rural Context, Arkansas, 1865-1905* (Fayetteville and London: The University of Arkansas Press, 1990).

Southern public life after 1867 was the most radical development of the Reconstruction years, a massive experiment in interracial democracy without precedent in the history of this or any other country that abolished slavery in the nineteenth century.”¹¹ Not only were Arkansas’s black lawmakers the vanguard of this “interracial democracy,” they also became politically active at a time when the legislature was addressing the most basic issues of public life, such as creating the infrastructure of public education and transportation in Arkansas.

I will show that black legislators in Arkansas were actively engaged in the work of the legislature—hardly the mute and manipulated tools suggested by the Dunning School. They introduced bills that eventually became laws, starting with Rush in the summer of 1868 and continuing through 1873, a period comprising the Seventeenth, Eighteenth, and Nineteenth general assemblies. Black lawmakers actively participated in other aspects of the parliamentary process—making motions, proposing amendments, making points-of-order. Some were as likely to take the floor as their white colleagues. The analysis of these three sessions seeks to contribute to the overall understanding of a larger history of African-American politics in Arkansas. Although it stops prior to the Democratic takeover of state government in 1874, Arkansas voters continued to send black men to the legislature into the 1890s, including a few who had switched their party allegiance from Republican to Democrat or Greenback.

My research highlights black involvement at the state level in four basic areas: civil rights, education, law and order, and economic development. These are the issues that not only drew the interest of Arkansas’s black lawmakers but also reflected the

¹¹ Eric Foner, *Reconstruction: America’s Unfinished Revolution 1863-1877* (New York: Harper & Row, 1988): xxv.

southern Republican agenda that dominated the state's politics between 1868 and Democratic Redemption in 1874. As DeBlack observed in *With Fire and Sword, Arkansas, 1861-1874*, "Republican leaders began to work on a comprehensive program of reforms that they hoped would fundamentally alter the nature of Arkansas society. ... Proponents claimed that this program, if successfully implemented, would ensure a better life for Arkansans of both races and all classes."¹² But as we shall see, black lawmakers proved not to be of a single mind when it came to this agenda. For example, while the enthusiasm for civil rights among African-American assemblymen never waned, in other cases, such as segregated public education and politically motivated impeachment charges, fissures in the black delegation appeared. In addition, considerable turnover within the black delegation and changing political circumstances rendered each of the sessions of the Reconstruction legislature distinctive in what it revealed about African-American politics.

These black lawmakers exhibited not only a diversity of opinion but also of background and circumstance. Historian Steven Hahn has shown the majority of black political leaders in the Reconstruction South had attained functional literacy, possessed special skills as farmers, teachers, and ministers, and had accumulated small but significant amounts of property.¹³ Arkansas's black legislators bear this out. Between 1868 and 1874 leading members of the black legislative delegation included William H. Grey, a merchant and lay minister from Helena; Richard A. Dawson of Pine Bluff, who

¹² Thomas A. DeBlack, *With Fire and Sword: Arkansas 1861-1874* (Fayetteville: The University of Arkansas Press, 2003): 201.

¹³ Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge and London: The Belknap Press of the Harvard University Press, 2003): 222.

claimed to be the first black law graduate from the University of Chicago;¹⁴ Ferdinand Havis, a barber from Pine Bluff who directed Republican politics in Jefferson County for more than four decades; and James T. White, a Baptist minister from Helena and one of the wealthiest black legislators of this period.

But as Hahn also notes, in southern legislatures many black officeholders were poor and had little political experience.¹⁵ Among the black legislators who served in Arkansas's legislature during these years were also men such as Monroe Hawkins, a soft-spoken, itinerant farmer who reported only forty-four dollars in taxable property in 1875, and John Rollins, a farmer who reported nine dollars in taxable property in 1873 and ten dollars in 1874.¹⁶ Unlike Grey, Dawson, Havis, and White, these lawmakers hailed from rural areas with significant black populations. Hawkins represented a southwestern district that included Lafayette County, which had a 56 percent black population, according to the 1870 Census, and Rollins was elected from Ashley County in the state's Arkansas Delta, where blacks composed 48 percent of the population in 1870.¹⁷

Overall, the thirty-two African Americans sent to Little Rock during these years came from legislative districts where most black voters lived. Most of these districts were in the "black belt" counties of the Arkansas Delta: Chicot, of whose population was 74 percent black, according to the 1870 Census; Phillips (68 percent black); Desha (64 percent); Arkansas (51 percent); and Drew (38 percent). Others were elected from geographic pockets of the state with large African-American populations, such as

¹⁴ *Arkansas Gazette*, February 2, 1873.

¹⁵ Hahn, *A Nation Under Our Feet*, 238.

¹⁶ Blake Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," *Arkansas Historical Quarterly* 65 (Winter 2006): Table 3.

¹⁷ University of Virginia Library Historical Census Browser, <http://mapserver.lib.virginia.edu/> (accessed April 12, 2010).

Jefferson County in the southeast (65 percent), Hempstead County in the southwest (46 percent), and Pulaski County in the center (43 percent).¹⁸

Studying stenographic reports of the proceedings of the sessions contained in local newspapers or bound, printed journals that have survived to this day in libraries both within and outside Arkansas not only broadens our understanding of the careers of black officeholders at a crucial moment in African-American and Arkansas history, it also allows us to hear their long stifled voices. Grey, one of the first six black legislators, underlined the importance of his work in a speech he delivered to the House of Representatives to commemorate the George Washington's birthday in 1869.

“I feel, Sir, in regard to this matter, thrown, somewhat more than usually, off my equilibrium,” Grey said. “This is the first opportunity I have ever enjoyed of a permission to participate, as an American citizen, in the celebration of this anniversary of the birthday of him who is esteemed the father of the great American people. ... I take pleasure, Sir, upon this occasion, in participating in the celebration of the anniversary of this great patriot, because I believe in his bosom existed that germ of universal liberty, not liberty of one race alone, but, as I believe, a sympathy for the liberties of all mankind.”¹⁹

¹⁸ *Ibid.*

¹⁹ Little Rock *Republican*, February 25, 1869.

II. SOLIDARITY

Arkansas's first generation of African-American officeholders served at a time when the state government had to address the most fundamental aspects of public life. The Civil War had devastated a large portion of the Arkansas countryside. The number of horses and mares across the state dropped by 50 percent. Nearly 40 percent of mules had disappeared, as had 43 percent of cattle. Residents reported less than half the number of pleasure carriages than they had before the war. Emancipation had caused the single largest property loss. In 1860, nearly 61,000 slaves listed on the tax rolls were assessed at \$45 million. Landowners in 1866, uncertain over how the new system of free labor would affect their crop productivity, bought and sold acreage at half its pre-war value. Arkansas' economy was in dire straits.²⁰ The state was also beginning anew when it came to education and transportation, its public schools and railroads having been barely developed when war had broken out.

Politically, Unionists controlled state government at the end of the war, but leading Democrats had formed a Conservative party that appealed to white racism. They opposed the expansion of civil rights for black people, including the right to vote. They also accused the government led by Governor Isaac Murphy of fiscal irresponsibility, a charge repeatedly lodged against Republicans over the next decade. The Conservative platform appealed to white voters, who in 1866 swept them into power in the state legislature. Their authority was short-lived, however. The Republican-controlled Congress, unhappy with southern state governments that refused to guarantee civil rights of former slaves and tolerated widespread violence against them, passed the first

²⁰ Moneyhon, *The Impact of the Civil War and Reconstruction on Arkansas*, 176.

Reconstruction Act on March 2, 1867, which deemed existing state governments provisional and called for new state constitutions that provided black suffrage.²¹

African Americans, emboldened by Congress' action, mobilized under Republican aegis across the black belt of the South, especially through the Union League. But as some historians, most notably Steven Hahn, have shown, even though excluded from the formal processes of politics, African Americans had been behaving politically for generations. Hahn writes, "On particularly large estates, the heads of different families may have established informal 'plantation councils' to maintain order and impose discipline."²² After emancipation, as Hahn and Eric Foner have described, African Americans organized in a more public way, holding, for example, assorted "freedmen's conventions." But the Union League and Congressional Reconstruction introduced them to electoral politics. Political education was the main function of the league, and it gave freedmen valuable experience in parliamentary law and debating. As a result of the league's work in the South, the Republican Party became, in Foner's words, "an institution as central to the black community as the church and school."²³ Historian Michael Fitzgerald concludes in his 2007 book, *Splendid Failure, Postwar Reconstruction in the American South*, that the Urban League would become the "vehicle of mass politicization" of African Americans in the rural South.²⁴ In Arkansas, the

²¹ *Ibid.*, 190, 194, 198, 200, 205.

²² Hahn, *A Nation Under Our Feet*, 37.

²³ Foner, *Reconstruction*, 282-84; 291; Thomas Holt, *Black Over White: Negro Political Leadership in South Carolina During Reconstruction* (Urbana and Chicago: University of Illinois Press, 1977): 31.

²⁴ Michael W. Fitzgerald, *Splendid Failure: Postwar Reconstruction in the American South* (Chicago: Ivan R. Dee, 2007): 59. For an examination of the Union League, see Fitzgerald, *The Union League Movement in the Deep South: Politics and*

appearance of the Union League coincided with the establishment of the Republican Party in 1867. After its inaugural state convention in April, the party sent representatives through the state to establish local league chapters. More than two thousand African Americans attended a Union League rally in Helena in May 1867. Mass political demonstration spawned from the league included annual Fourth of July rallies among freedmen in Little Rock, Batesville, Camden, Fort Smith, and Pine Bluff.²⁵

Just as black political aspirations surged in Arkansas, the state's economic outlook soured. The cotton crop of 1865 was not as weak as had been feared, raising hopes for a bumper crop in 1866. But heavy rains, flooding, and insect infestation combined to ruin the 1866 and 1867 harvests, causing widespread financial hard times. "In the winter of 1867 and the spring of 1868," historian Carl Moneyhon writes, "few farmers or country merchants could get credit." The poor crop hit black tenants especially hard. Land prices tumbled again. Arkansas's landowners, pushed from political power by Congress in 1867, now faced an economic crisis that they felt threatened their survival.²⁶

A new political order was in place, but the terms of labor and land tenure were still being worked out in the wake of emancipation. The first elected black members of the Arkansas House of Representatives reported to the State House in Little Rock on April 2, 1868, as the Seventeenth General Assembly convened. This was not a typical gathering. The first session began within a week of the state adopting a new

Agricultural Change During Reconstruction (Baton Rouge: Louisiana State University Press, 1989).

²⁵ Randy Finley, *From Slavery to Uncertain Freedom: The Freedmen's Bureau in Arkansas, 1865-1869* (Fayetteville: The University of Arkansas Press, 1996): 55-56.

²⁶ Moneyhon, *The Impact of the Civil War and Reconstruction in Arkansas*, 225, 228, 236, 237, 240.

constitution—complete with voting rights for black adult men as required by Congress in order for the state to be restored to full representation in the union (Arkansas would be readmitted by act of Congress on June 22, 1868). On that spring afternoon, William H. Grey, James T. White, Anderson L. Rush, and Richard Samuels all took their seats in the House. Monroe Hawkins would join them soon thereafter. The *Arkansas Gazette* of Little Rock, the leading Conservative paper in the state, was not pleased. It compared the session to the recent constitutional convention that had included eight black delegates.²⁷ “The Tebbets corner, the usual rendezvous of negro leaguers and radical politicians, was crowded yesterday with a collection of individuals from various parts of the state to propose to organize themselves into a legislature today,” the paper reported. “We notice that nearly all the radical members of the late menagerie have returned to our city, and the petty officers of the piebald assemblage are also here. They seem to congregate like buzzards about carrion.”²⁸ In the Senate, James W. Mason took his seat a week later on April 9—exactly three years after Robert E. Lee’s surrender to Ulysses S. Grant at Appomattox. The black populace was drawn to the unprecedented proceedings. According to the *Gazette*, the galleries were filled with “ragged and dissolute negroes, who congregate there to watch the show below.”²⁹

Grey was marked as the leader of the state’s black legislative delegation. During lengthy discussions at the constitutional convention concerning a proposed anti-

²⁷ For a complete description of the convention, see Graves, *Town and Country*, 17-27; Richard L. Hume, “The Arkansas Constitutional Convention of 1868: A Case Study in the Politics of Reconstruction,” *The Journal of Southern History* 39 (May 1973): 183-206; and Joseph M. St. Hilaire, “The Negro Delegates in the Arkansas Constitutional Convention of 1868: A Group Profile,” *Arkansas Historical Quarterly* 33 (Spring 1974): 38-69.

²⁸ *Arkansas Gazette*, April 2, 1868.

²⁹ *Arkansas Gazette*, April 5, 1868.

miscegenation provision, Grey had established himself as a skilled debater and orator. In his closing argument against the provision, Grey told the assemblage that if it were adopted, he would insist on a constitutional provision establishing the death penalty for any white man found cohabiting with a black woman. The provision was not adopted in lieu of a compromise that the outlawing of interracial marriage would be pursued by future general assemblies.³⁰

Grey was biracial, born free about 1830 in Washington, D.C., and educated in Washington and Virginia. He had been employed as a servant to Henry A. Wise, who served as a Virginia congressman and was the governor who hanged John Brown.³¹ Grey attended sessions of Congress, where he evidently learned legislative procedures. He eventually became involved in the African Methodist Episcopal Church and moved to St. Louis, Missouri, where he married and began a family. By 1863, Grey was living in Union-occupied Helena, Arkansas, and he attended the state Colored Men's Convention of 1865.³² After the constitutional convention of 1868, voters elected Grey, a minister and grocer, to represent the Eleventh District, composed of Phillips and Monroe counties.³³ He reported \$500 in taxable property to the 1870 Census.³⁴ The *Little Rock Republican* described Grey as a "first class representative of his race."³⁵

³⁰ Hume, "The Arkansas Constitutional Convention of 1868: A Case Study in the Politics of Reconstruction," 188-191. Hume concludes that the defeat of the proposal to insert miscegenation into the constitution displayed the "firm control" of white reconstructionists over the convention.

³¹ St. Hilaire, "The Negro Delegates in the Arkansas Constitutional Convention of 1868: A Group Profile," 43.

³² Foner, *Freedom's Lawmakers*, 91, 92.

³³ Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," Table 3; Arkansas Secretary of State, *Historical Report of the Secretary of State 2008*, (Little Rock and Fayetteville: Arkansas Secretary of State's Office and the University of Arkansas Press, 2008), 132.

James T. White was born about 1840 in New Providence, Indiana.³⁶ Like Grey, he was both mulatto and had never been a slave. White came to Helena in 1865, took over a Baptist congregation that met in a government horse stable and moved it to a vacated church before building Helena's first black brick church building.³⁷ White's status in the community as a church leader fits Hahn's image of early African-American political leaders in the South: "these churches frequently provided the settings for the first political meetings of the post-emancipation period and their ministers ... frequently emerged as the early political leaders."³⁸ Not surprisingly, White was the principal organizer of the Colored Convention of Colored Citizens of Little Rock in 1865. He was also a wealthy man at the time he was elected to represent the Eleventh District in the House; he reported \$9,200 in taxable property in the 1870 Census.³⁹ The *Republican* described him as a "zealous Republican" with a "good education."⁴⁰

James W. Mason, born in 1841, was one of the most interesting public figures of this era, being one of two children of Elisha Worthington, the largest slave owner in Arkansas in 1860, and a slave woman. Worthington raised Mason and Mason's sister, Martha, as his own on the sprawling Sunnyside Plantation. Both were sent to Oberlin College in Ohio. Mason continued his studies in France until 1860, when he returned to

³⁴ Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," Table 3.

³⁵ Little Rock *Republican*, Jan. 8, 1869.

³⁶ Foner, *Freedom's Lawmakers*, 227; Bobby L. Lovett, "African Americans, Civil War, and Aftermath in Arkansas," *Arkansas Historical Quarterly* 54 (Autumn 1995): 332.

³⁷ Lovett, "African Americans, Civil War, and Aftermath in Arkansas," 333.

³⁸ Hahn, *A Nation Under Our Feet*, 120.

³⁹ Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," Table 3; *Historical Report of the Secretary of State 2008*, 132.

⁴⁰ Little Rock *Republican*, Jan. 8, 1869.

Sunnyside. By that time, the plantation had 543 slaves growing cotton on 12,000 acres. Mason supervised at least part of the plantation and by 1868, he had become the Republican “boss” of Chicot County.⁴¹ He had served as a delegate to the constitutional convention, where he spoke about a dozen times, and the *Arkansas Gazette* noted Mason’s “aristocratic cast of features, and his olive complexion and straight hair ...”⁴² Not surprisingly, Mason had presented a provision at the convention that asserted illegitimate children, like himself, possessed the right to inherit property from their parents.⁴³ Mason, elected to represent the Twenty-Second District in the Senate (comprising Ashley, Chicot, Drew, and Desha counties), reported \$10,000 in taxable real estate and \$2,000 in taxable personal property in 1870.⁴⁴

Anderson L. Rush was almost thirty years old during the 1868-69 General Assembly.⁴⁵ A native of Pulaski County, it was reported in 1869 that the biracial Rush had served as a sergeant major in the Union Army, was self-educated and engaged in merchandising.⁴⁶ Later historical accounts list his occupation as teacher.⁴⁷ Rush, who

⁴¹ Willard B. Gatewood, Jr., “Sunnyside: The Evolution of and Arkansas Plantation, 1840-1945,” in *Shadows Over Sunnyside: An Arkansas Plantation in Transition, 1830-1945*, ed. Jeannie Whayne (Fayetteville: University of Arkansas Press 1993): 5, 6, 9.

⁴² *Arkansas Gazette*, Jan. 14, 1868.

⁴³ St. Hilaire, “The Negro Delegates in the Arkansas Constitutional Convention of 1868: A Group Profile,” 62.

⁴⁴ Foner, *Freedom’s Lawmakers*, 142; *Historical Report of the Secretary of State 2008*, 131.

⁴⁵ *Little Rock Republican*, Jan. 8, 1869.

⁴⁶ *Ibid.*

⁴⁷ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

was probably born a slave, reported \$900 in taxable property in 1870.⁴⁸ Voters from the Tenth District (Pulaski and White counties) sent him to the House in 1868.⁴⁹

The other two black lawmakers offered something of a contrast to Grey, White, Mason, and Rush. Richard Samuels, a black farmer, migrated as a slave from Kentucky to Arkansas in the 1840s.⁵⁰ He was elected to represent the Fourteenth District (Hempstead County) in 1868 and was the second-poorest of the first six black legislators, reporting just \$160 in taxable property in 1869.⁵¹ Finally, Monroe Hawkins was born a slave in North Carolina in 1832 and he was brought to Arkansas in 1842.⁵² In 1868, when he was elected to represent the Fifteenth District (Lafayette and Little River counties), he was employed as a minister and farmer. Hawkins reported being literate but owning no property in 1870.⁵³

An examination of their votes on major bills during the assembly reveals the black legislators generally aligned themselves with the majority “reconstructionist” Republicans, known as Radicals, who favored the Congressional Reconstruction plan. Many white Radicals, commonly described as “carpetbaggers,” were northerners who had come to the state during or after the war for motives including economic and political opportunity.⁵⁴ Clayton, Arkansas’s governor from 1868 to 1871, described northern newcomers to Arkansas politics as “ex-Union officers and soldiers who had been

⁴⁸ *Ibid.*

⁴⁹ *Historical Report of the Secretary of State 2008*, 132.

⁵⁰ *Little Rock Republican*, Jan. 8, 1869.

⁵¹ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3; *Historical Report of the Secretary of State 2008*, 132.

⁵² St. Hilaire, “The Negro Delegates in the Arkansas Constitutional Convention of 1868: A Group Profile,” 44.

⁵³ Foner, *Freedom’s Lawmakers*, 99; *Historical Report of the Secretary of State 2008*, 132.

⁵⁴ DeBlack, *With Fire and Sword*, 162.

impressed during their period of service with the genial climate and great natural resources of Arkansas and who when mustered out of the service had consequently adopted the state as their home.”⁵⁵

Radicals appealed to Arkansas’s black lawmakers because many of them had insisted on abolition before the war and immediate civil rights for blacks after the conflict. As Foner observes, “the driving force of Radical ideology was the utopian vision of a nation whose citizens enjoyed equality of civil and political rights, secured by a beneficent national state.”⁵⁶ Another historian has noted that the state’s black voters favored Radicals “because blacks needed changes now rather than waiting for gradual modifications as proposed by Arkansas’ native, conservative Republicans.”⁵⁷ These native white Republicans, known as “scalawags,” who, in Foner’s words, included “wartime Unionists and advocates of secession, entrepreneurs advocating a modernized New South and yeomen seeking to preserve semisubstistence agriculture,” were most immediately interested in the proscription of Confederates from voting and holding office and relief for debt-ridden farmers, and also tended to divide sharply on racial issues.⁵⁸

Black politicians of this era in the South are often examined chiefly in terms of their postures toward civil rights issues. According to Hahn, nearly all the black

⁵⁵ Powell Clayton, *The Aftermath of the Civil War, in Arkansas* (1915; repr. New York: Neal Publishing Company, 1969): 13. Clayton is a leading representative of former Union soldiers who became active in Arkansas political affairs during Congressional Reconstruction. A native of Pennsylvania, he entered Arkansas as a colonel in the 5th Arkansas Cavalry in 1862. He later was appointed commander of the Union post at Pine Bluff. In April 1865 he married Adaline McGraw of Helena and settled on a plantation along the Arkansas River. He was a founding member of Arkansas’ Republican Party in 1867.

⁵⁶ Foner, *Reconstruction*, 230.

⁵⁷ Lovett, “African Americans, Civil War, and Aftermath in Arkansas,” 337.

⁵⁸ Foner, *Reconstruction*, 297, 317.

delegates to southern constitutional conventions “were committed to constructing a political and civil society in the South in which the lines of exclusion based on race or previous condition would be eliminated.”⁵⁹ The eight-man black delegation to Arkansas’s constitutional convention—which included future legislators Grey, Hawkins, Mason, Samuels, White and William Murphy—had indeed seemed interested in thwarting attempts to limit their civil and political rights.⁶⁰

That African-American thirst for civil rights manifested itself early in the House of Representatives in 1868. On April 16, White, the Baptist minister from Helena, gave notice that he would introduce a bill to regulate travel in public conveyances.⁶¹ On June 3, he followed through on his promise, titling his bill an “Act punishing public carriers, for making distinctions on account of race or color.” Five days later, the bill, now known as House Bill 59 and titled “Inflicting punishment on public carriers, for invidious distinctions on account of race or color,” came up on second reading. It was referred to the judiciary committee, but the motion to print the bill initially failed. The House Journal does not indicate individual members’ votes on this legislation. Not printing bills after their second reading was unusual, so perhaps this vote is a sign of white House members—regardless of their political affiliations—becoming apprehensive about extending “social equality” to black citizens. However, a reconsideration of the vote not

⁵⁹ Hahn, *A Nation Under Our Feet*, 209.

⁶⁰ Hume, “The Arkansas Constitutional Convention of 1868: A Case Study in the Politics of Reconstruction,” 188, 191, 201.

⁶¹ *Little Rock Republican*, January 8, 1869; *Journal of the Assembly of the State of Arkansas at Their Seventeenth Session, Begun and Held at the Capitol, in the City of Little Rock, on the Second Day of April, 1868*. (Little Rock, John G. Price, State Printer, 1868): 63.

to print the bill passed forty-three to sixteen the next day, and two hundred copies were ordered printed.⁶²

Two months into the session, White, perhaps sensing that time may be running out on his bill, requested that a special committee be appointed to draft a new document. White and Grey were assigned to the committee, which on June 24 reported that parts of White's original bill were unconstitutional and recommended a substitute. On July 6, four days after the inauguration of Clayton as governor and three weeks after Arkansas's readmission to the United States, White called up Substitute House Bill 59 and offered an amendment: "Be it further enacted, that nothing in this bill shall be so construed as to prevent any person or persons from bringing a civil suit against any of the above named parties for damages." The amendment was adopted and the bill was ordered engrossed for a vote. Again, the House journal does not indicate the individual votes. That set the stage for debate on the bill on Friday, July 10, the seventy-second day of the session. When a motion was made for a vote on the final passage of the bill, several members moved toward the doors to prevent a quorum, according to the journal keeper, who did not record their names. The sergeant-at-arms was ordered to close the doors and allow no one inside or out for an hour while a private roll call vote was taken. After an hour and fifteen minutes elapsed, the doors were opened and the vote was announced. The bill had passed fifty-two to eleven, with seventeen members absent or not voting. Black

⁶² *House Journal* 1868, 154, 172, 180. Because of the telegraphic nature of the House journals of this period, the exact contents of a bill are often difficult to determine unless it became law.

legislators demonstrated an unsurprising solidarity on the issue. White, Grey, Hawkins, and Rush all voted for the bill. Samuels was absent.⁶³

While a majority of white legislators favored the black-initiated bill, the *Gazette* suggested some of them feared the potential consequences of the bill's passage. "The hall was as silent as when vacant," the paper's correspondent wrote. "Eleven declined to cross the river Styx and are still among the living, although their experiences in the valley of the shadow of death are more than men generally would be willing to risk, even for political purposes."⁶⁴

On July 11, with the support of Mason, the Senate passed the anti-discrimination bill, twenty to one.⁶⁵ Clayton, who wrote warmly in his autobiography of black attendance at his inauguration, signed the bill into law on July 14.⁶⁶ It outlawed discrimination against persons desiring first-class passage on steamboats, streetcars, railroads, stagecoaches or other carriers; and in inn or hotel accommodations and places of public amusement. The punishment would include a fine ranging from two hundred to two thousand dollars and a jail term of up to one year.⁶⁷

The passage of the act showed how African-American legislators and voters could influence the Republican Party in Arkansas. John Graves writes, "Providing its largest

⁶³ *House Journal* 1868, 225, 238, 320, 321, 373, 374.

⁶⁴ *Arkansas Gazette*, July 11, 1868.

⁶⁵ *Journal of the Senate of Arkansas. Seventeenth Session, Begun at the Capitol, in the City of Little Rock, on the Second Day of April, A. D. 1868.* (Little Rock, Price & Barton, Public Printers, 1869): 174.

⁶⁶ Clayton, *The Aftermath of the Civil War, in Arkansas*, 14.

⁶⁷ *Acts of the General Assembly of State of Arkansas, Passed at the Session held at the Capitol, in the City of Little Rock, which began on Thursday, the Second day of April, A.D. Eighteen Hundred and Sixty-eight, and adjourned the twenty-third day of July Eighteen Hundred and Sixty-eight, to reassemble on the seventeenth day of November the same year.* (Little Rock, John G. Price, State Printer, 1868): 39-40.

constituency, they [blacks] often managed to shape the direction of the Republican policies and secure programs for advancement of their race. Nowhere is this more evident than in the field of civil rights.”⁶⁸ In fact, black lawmakers were as or more successful in this regard than their counterparts in states with larger African-American populations. In South Carolina, where African Americans often outnumbered their white colleagues in the statehouse, the legislature took up non-discrimination legislation during a special session in 1868, but the bill languished in committee for several months. The black legislators pushed the bill through the house, but it was tabled in the senate and no further action was taken.⁶⁹ In Louisiana, a civil rights provision that made racial discrimination illegal in all public places and conveyances was included in that state’s ratified 1868 constitution. Black representatives in the Louisiana legislature, representing less than a third of the House and the Senate, that same year were defeated in their attempt to pass a law that would add criminal penalties to the constitutional provision, but they kept the issue alive in early 1869 and the legislature passed an anti-discrimination bill with proscribed penalties; governor Henry Warmoth, who had twice vetoed similar civil-rights measures, signed the bill that February.⁷⁰ In 1868, Florida governor Harrison Reed had vetoed a bill similar to Arkansas’s.

Black legislators in Arkansas during the Seventeenth Assembly proved just as interested in education as they were civil rights. Freed blacks throughout the South, seeing education as a pillar of self-improvement, formed societies and raised money to

⁶⁸ John W. Graves, *Town and Country: Race Relations in an Urban-Rural Context, Arkansas, 1865-1905* (Fayetteville and London: The University of Arkansas Press: 1990): 29.

⁶⁹ Holt, *Black Over White*, 143-44.

⁷⁰ Charles Vincent, *Black Legislators in Louisiana During Reconstruction* (Baton Rouge: Louisiana State University Press, 1976): 62, 92, 94, 96.

pay for the construction of schools and teacher salaries.⁷¹ The interest dovetailed with that of the Republican Party more broadly in establishing public education systems in the South. The new Arkansas constitution had empowered the General Assembly to create a system of free public schools for all children, regardless of race. The schools would be paid for through a one-dollar poll tax levied upon all adult male residents, in addition to state appropriations and local taxes, among other things.⁷²

Public-school bills began winding their way through the House and Senate in the late spring and early summer of 1868. On July 16, Mason and fifteen other senators unanimously passed Senate Bill 41, a lengthy document that sought for the first time to establish and maintain a system of free tax-supported common schools in the state.⁷³ “The question of separate, segregated school facilities was left discreetly unmentioned,” notes Graves.⁷⁴ But section 107 of this bill gave each local school board the authority to establish separate schools for white and black children.⁷⁵

The House took up debate on Senate Bill 41 on July 18, a week before the General Assembly adjourned until November and was immediately met with opposition by the black members. A. M. Johnson, a white Republican from northeast Arkansas, proposed an amendment to the bill: “Nothing in this act shall be construed as to prevent said board of education from establishing and maintaining mixed schools of white and colored youths, when the majority of citizens, both white and colored, shall petition said

⁷¹ Foner, *Reconstruction*, 98.

⁷² Article IX in *the Constitution of the State of Arkansas, Framed and Adopted by the Convention Which Assembled at Little Rock, January 7th, 1868, and Ratified by the Registered Electors of the State, at the Election Beginning March 13th, 1868.*

⁷³ *Senate Journal* 1868-69, 212.

⁷⁴ Graves, *Town and Country*, 23.

⁷⁵ *Acts of Arkansas* 1868, 196.

board to establish such schools.” Grey, Hawkins, Rush and White all voted for Johnson’s amendment (Samuels was absent) but the amendment failed, thirty to twenty-six. Grey then moved that nearly the entire bill be rewritten and recommitted to the House education committee. Although the entire black delegation present voted for the motion, it failed forty-five to eleven. The bill then passed the house in a thirty-seven to nineteen vote. Grey, Hawkins and Rush all voted no, but White, perhaps feeling that a separate public school system was better than none at all, voted yes.⁷⁶

The bill returned to the Senate with approved amendments. By July 20, Mason had shifted his position. He was the lone dissenting vote on the bill, which passed twenty to one. His switch perhaps illustrates the complex social position in which Mason found himself. He was the privately educated son of a wealthy planter but elected by a largely black constituency. Immediately after the vote, three white senators—E. G. Barker of Crittenden County and Benjamin Thomas of Phillips County, both of whom had been elected from counties with large black populations, and D. P. Beldin of Hot Spring County—inserted a protest into the record:

“We do solemnly protest against that section (107) of “An act establishing a system of free common schools,” which compels the Board of Education to establish separate schools for white and colored children, believing that this should be left to the wishes and convenience of the people of each separate school district, expressed by a vote of the legal voters of said district. We further

⁷⁶ *House Journal* 1868, 474-77. Regarding Samuels’ absence, he was granted a fifteen-day leave of absence on July 6 and missed several critical votes at the end of the first session.

believe that it is contrary to republican form of government and principles, and contrary to the spirit and meaning of the Constitution of the State of Arkansas, which we are sworn to protect.”⁷⁷

In spite of the opposition of a minority of black and white legislators, Clayton signed the bill into law on July 23, 1868.

In contrast, black legislators expressed near unanimous support for other education bills that came up during the 1868 and 1869 sessions. As a way to encourage public higher education, Congress had passed the Morrill Land Grant Act in 1862, which granted thirty thousand acres of public lands to be sold to pay for new state universities, provided those states created a university and held classes before 1872. Arkansas had yet to enact a law establishing such an institution. That changed. On July 15, 1868, the House passed such a bill with only one dissenting vote among the fifty-six that were cast. Grey, Hawkins, Rush, and White all supported the bill; Samuels was absent.⁷⁸ It passed the Senate sixteen to zero on July 18, with Mason not voting and absent without leave.⁷⁹ The act would eventually lead to the creation of Arkansas Industrial University, which opened in 1872 in Fayetteville.

On May 26, Hawkins, Rush, Samuels and White (with Grey being absent) all supported a House Joint Resolution for the endowment of a female college and state

⁷⁷ *Senate Journal 1868-69*, 238-39.

⁷⁸ *House Journal 1868*, 437-38.

⁷⁹ *Senate Journal 1868-69*, 245-46. Mason was granted several leaves of absence during the 1868 and 1869 sessions—often for sickness—including ten days in April 1868, fifteen days in June, twelve days in February 1869 and ten days in March. He also missed several key votes on days in which he answered the roll call then left the chamber.

normal school, although the school never came to fruition.⁸⁰ The delegation also supported education and asylum care for the disabled, as well. In the House, Grey, Hawkins, Rush, and White all supported Senate Bill 6, which established the Arkansas Deaf-mute Institute.⁸¹ Grey, Rush, and White also voted to move the Arkansas Institute for the Blind from Arkadelphia to Little Rock, where it would come under state support and control.⁸² Hawkins, Rush, and White all supported a bill that would provide state support for charitable schools. This was a time when many missionary organizations were operating privately funded schools for black children. The bill passed the House but was immediately reconsidered and tabled and no further action was taken.⁸³ And on February 24, 1869, Grey, Hawkins, Rush, and White all supported House Bill 199, which would make an appropriation of two hundred dollars for the purchase of books for the prisoners in the state penitentiary. Samuels opposed the bill.⁸⁴

Republicans often paired education with economic development as dual means of modernizing the South, and Arkansas's first black legislators, like their counterparts elsewhere, seemed to share the Republican Party's interest in subsidizing internal improvements such as railroads, highways, and levees. Many Republicans hoped the prosperity railroads could breed would draw more white southerners to the party, while many African Americans saw industrial development as offering their own people an alternative to plantation labor. After the Reconstruction Acts, railroad fever swept

⁸⁰ *House Journal* 1868, 137.

⁸¹ *House Journal* 1868, 426-27.

⁸² *House Journal* 1868, 407.

⁸³ *House Journal* 1868, 446-447.

⁸⁴ *Little Rock Republican*, January 8, 1869; *Journal of the House of Representatives, Arkansas. Seventeenth Session, Begun at the Capitol, in the City of Little Rock, on the Seventeenth Day of November, A. D. 1868, and Ending the Tenth Day of April, A. D. 1869.* (Little Rock: Price & Barton, Public Printers, 1870): 527-28.

Republican-controlled statehouses in the South. Republican proponents of a New South—a South that would more resemble the North economically and industrially—claimed the best avenues toward a more industrialized society was a dependable transportation system and an influx of northern capital. A railroad system would satisfy both conditions.⁸⁵ Clayton, in his first message to the General Assembly, declared that railroads “are themselves existing witnesses of their wealth-giving power, for wherever they reach out their iron arms the seeds of prosperity are rapidly disseminated ... as each successive train sweeps by, laden with the varied merchandise of every clime, far out to the right and left is disseminated information for the people—information that educates as well as enriches.” The governor asked for a bill that would allow the state to loan credit to railroad companies, and noted that such a bill would need to be approved by a vote of the people as mandated by the constitution.⁸⁶

Nearly every major piece of railroad legislation in the first session of the General Assembly passed overwhelmingly; in fact, there was little recorded discussion in the House and Senate journals regarding these important bills. Senate Bill 49, which would provide state aid in the construction of railroads, passed the upper chamber on July 17 by a vote of fourteen to zero; Mason voted “aye.”⁸⁷ Grey, Hawkins and Rush all voted for the bill (White and Samuels were absent) as it easily passed the House by a vote of forty-nine to four on July 20.⁸⁸ Clayton signed the bill into law on July 23, but because the state constitution prohibited the loaning of the state’s credit without a vote of the

⁸⁵ Mark W. Summers, *Railroads, Reconstruction, and the Gospel of Prosperity: Aid under the Radical Republicans, 1865-1877* (Princeton, New Jersey: Princeton University Press, 1984): 6.

⁸⁶ Powell Clayton, *The Aftermath of the Civil War, in Arkansas*, 43-44.

⁸⁷ *Senate Journal* 1868-69, 222-23.

⁸⁸ *House Journal* 1868, 482.

electorate, voters had to officially approve the plan in November 1868. On July 15, Senate Bill 57, which made it easier to organize railroads by providing for a system of general incorporation, passed the Senate fourteen to zero, with Mason being absent without leave.⁸⁹ The bill passed the House on July 20 by a vote of forty-five to two, with Grey, Hawkins, Rush in support and Samuels and White absent.⁹⁰

While the legislature was passing bills to authorize and benefit specific railroad entities such as the Memphis and Little Rock Railroad Company, one black legislator promoted the revival of a railroad, probably as a specific benefit to his constituency. On July 11, Grey, a merchant in Helena, introduced a bill to revive and incorporate the Iron Mountain and Helena Railroad Company.⁹¹ The bill was adopted on July 17 by a vote of forty-four to zero, with Grey, Hawkins, and Rush supporting the measure. Samuels and White were absent. Grey's railroad bill was never taken up in the Senate, however, and failed to become law.

With one significant exception, Arkansas' black legislators in 1868 and 1869 gave their full support to other internal improvement measures. These included a House Bill 26, an act to improve roads and highways; House Joint Resolution 7, which requested aid from Congress to construct a levee and railroad bed on the west bank of the Mississippi River; House Bill 101, which prescribed the duties of the state's commissioner of public works and internal improvements; and a bill that would provide for the building and

⁸⁹ *Senate Journal* 1868-69, 206.

⁹⁰ *House Journal* 1868, 492.

⁹¹ *House Journal* 1868, 396, 461.

repairing of levees throughout the state. Grey, Rush, and Samuels all supported the bill, while Hawkins and White were absent.⁹²

But one bill created division among black House members. Senate Bill 11, an act that would open and regulate roads and highways had unanimously passed the Senate on July 8, twenty-three to zero with Mason's support.⁹³ But the next day, it only narrowly passed the House, thirty-five to twenty-seven, with Rush being the only black representative to vote "aye." Grey and White opposed the bill; Samuels was absent. Grey and White did not explain their votes.⁹⁴ An examination of the bill, which became Act 28 of 1868, may provide a clue. It contains a provision that all males be compelled to work on public highways at least four or five days a year, but allowed exemptions for those who paid two dollars a day in lieu of such labor.⁹⁵ Perhaps Grey and White saw this section as discriminating against poor people, including blacks.

Both Republicans and Democrats in the South often linked immigration with internal improvements as another engine of economic development. They believed the economic base would grow with its population. According to the *Gazette*, "Our great want is patient, contented, earnest, industrious men, with strong arms and indomitable wills, who, with their own hands will clear away forests and build homes."⁹⁶ Clayton, in his address to the General Assembly, echoed this ideal when he recommended in his message to the legislature that it create a "vigorous bureau of immigration" whose director would "direct the capital and the labor of the North to this more genial climate."

⁹² *House Journal* 1869, 597-99.

⁹³ *Senate Journal* 1868-69, 150-51.

⁹⁴ *House Journal* 1868, 357-58.

⁹⁵ *Acts of Arkansas* 1868, 101.

⁹⁶ *Arkansas Gazette*, April 22, 1868.

The governor wrote, “Millions of broad acres, teeming with fatness and fertile beyond description, patiently await the ‘open sesame’ that shall unlock and develop their varied stores.”⁹⁷ In other words, in Clayton’s vision homesteaders would turn forests and swamps into productive farmland. Some historians have noted other interests at work. Republicans favored immigration to boost the party in the South, by drawing northerners and Europeans more disposed to vote Republican than many white southerners were, and Democrats encouraged white immigration to counter black immigration and provide an alternative to reliance on black labor.⁹⁸

The legislature provided Clayton with two bills to sign, and both passed without opposition from black legislators. Senate Bill 40 provided for the appointment of a commissioner of immigration and state lands. It passed seventeen to one, with Mason voting yes, on July 7.⁹⁹ The House passed the bill on July 11, fifty to five, with Grey, Hawkins, and Rush all in support. Samuels and White were absent.¹⁰⁰ House Bill 34, which created the bureau of immigration, unanimously passed the House fifty-seven to zero on July 14.¹⁰¹ The bill passed without an opposing vote in the Senate on July 15. Mason was absent without leave.¹⁰²

Perhaps with one eye on the new system of free labor and the other on the potential tenant farmers attracted to the state by immigration efforts, lawmakers passed a laborer’s lien law intended to give tenants an equal footing with their landlords in crop disputes. Such lien laws mattered to southern African-American farmers, according to

⁹⁷ Clayton, *The Aftermath of the Civil War, In Arkansas*, 42.

⁹⁸ Foner, *Reconstruction*, 213-14, 419.

⁹⁹ *Senate Journal* 1868-69, 149.

¹⁰⁰ *House Journal* 1868, 397-98.

¹⁰¹ *House Journal* 1868, 423-24.

¹⁰² *Senate Journal* 1868-69, 205-06.

historian Michael Fitzgerald: “Widespread tenancy raised new issues, beginning with the legal status of sharecroppers: were they true tenants with the right to dispose of the crop, or just paid employees? It made considerable difference for who had the chance to cheat whom.”¹⁰³ In Arkansas, the answer was Senate Bill 3, an act that would give laborers a lien on the crop until their labor was paid for. It passed the Senate twelve to seven on June 12, 1868. Mason, who was quite familiar with the new labor system due to his experience on the Sunnyside Plantation and quite possibly could have voted with the minority, was absent.¹⁰⁴ On July 17, the House passed the bill thirty-nine to ten, with Grey, Hawkins, Rush, and White all voting for the measure. Samuels was absent.¹⁰⁵ Although the Arkansas law granted the landlord a lien on the crop grown for rent, it did not provide a lien for supplies. This was not typical of other states, according to legal scholar Harold D. Woodman. In addition, it did not require that the rental agreement be in writing in order to create the laborer’s lien.¹⁰⁶ The bill became Act 64 of 1868 upon Clayton’s signature on July 23. John Graves argues the lien law did not turn out to be of much use to black tenant farmers: “While the lien act proposed to halt the cheating of Negro field hands by unscrupulous planters, most blacks did not have independent records of wages owed and in any case were usually too fearful, impoverished, and uninformed to avail themselves of the statute’s protection.”¹⁰⁷ Regardless of its effectiveness, Redeemer Democrats in the General Assembly in 1875 felt compelled to

¹⁰³ Fitzgerald, *Splendid Failure*, 157.

¹⁰⁴ *Senate Journal* 1868-69, 96.

¹⁰⁵ *House Journal* 1868, 467-68.

¹⁰⁶ Harold D. Woodman, *New South—New Law: The Legal Foundations of Credit and Labor Relations in the Postbellum Agricultural South* (Baton Rouge and London: Louisiana State University Press: 1995): 60.

¹⁰⁷ Graves, *Town and Country*, 35.

nullify it by passing a law that gave the landlord's lien precedence over the laborer's in the absence of a written agreement.

By the end of its first session, black legislators had joined the white majority in fulfilling many of the goals enumerated by Clayton in his address. They had helped create a taxpayer-supported public school system, taken control of the state school for the blind, created an institute for the deaf, and authorized the creation of a state university. Lawmakers had paved the way for railroad construction and state aid toward railroad incorporation. The General Assembly had signed off on bills that would create more roads, highways, and levees. It had established a new bureau of immigration to attract newcomers, specifically laborers who would work on major projects such as railroad and highway construction, in addition to becoming farmhands. And the assembly had passed a laborer's lien law intended to protect employees from their employers in disputes over non-payment for work performed.

Regardless of how loudly Republicans could trumpet their successes, the General Assembly's second session began on Nov. 17, 1868, in the wake of waves of political and racial violence carried out by the Ku Klux Klan and other clandestine white terroristic organizations through the summer and fall. Night-riding, assassinations, lynching and other forms of terror were of grave concern to freed blacks, the state government, and even Democrats who supported some aspects of the Republican program.

The governor's office received reports of more than two hundred murders committed in Arkansas during the three months prior to the November 3 election.¹⁰⁸ Congressman James Hinds was ambushed and killed by a shotgun blast on October 22

¹⁰⁸ Allen W. Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (Baton Rouge and London: Louisiana State University Press, 1971), 154.

while traveling to a speaking engagement in Monroe County. That same month, P. J. Andrews, a United States assessor, H. F. Willis, a Freedman's Bureau agent, and an unidentified black man were all ambushed in Little River County and shot to death.¹⁰⁹ Clayton was able to tie these killings and others to hatred of Republicans and Republican sympathizers. On November 1, Clayton informed legislators that after the November 3 election he intended to proclaim martial law in the ten counties that experienced the worst violence.

Black assemblymen, like many of their white colleagues, had reacted to increasing violence in the spring, long before martial law. The third bill filed in the House in April 1868 concerned the enrollment of a state militia. On June 8, one month into the session, the House passed the substitute for House Bill 3 by a vote of fifty-three to seven. Hawkins, Rush, Samuels, and White all supported the bill; Grey was absent.¹¹⁰ On July 3, Clayton pleaded with the General Assembly to pass a militia law in his first address to the body: "Under the peculiar circumstances of the present, the public safety absolutely demands that you should proceed at once to provide for an efficient and well-disciplined militia."¹¹¹ Black assemblymen displayed resolute support of Clayton and his efforts to suppress political and racial violence. On July 7, Mason supported the proposed militia act, which provided for the enrollment and training of the State Guards of Arkansas; it passed the Senate unanimously.¹¹² Grey, Hawkins, Rush, and White (Samuels was absent) all supported the amended bill as it passed fifty-four to nine on July

¹⁰⁹ Clayton, *The Aftermath of the Civil War, in Arkansas*, 96-97, 102-103.

¹¹⁰ *House Journal* 1868, 172.

¹¹¹ Clayton, *The Aftermath of the Civil War, in Arkansas*, 40.

¹¹² *Senate Journal* 1868-69, 148.

9.¹¹³ On July 14, Clayton signed Act 18 of 1868, which stipulated that the governor would become commander-in-chief of all militia forces, which included the State Guards and a Reserve Militia, and that the state forces would be supported through a one-eighth of 1 percent tax upon both real and personal property.¹¹⁴

The *Gazette* opposed the militia bill from its inception. It accused the legislature of scheming to create an all-black army with arresting power that would “dispose of the lives and fortunes of men as may suit their pleasure.”¹¹⁵ The paper continued to drum up opposition to the militia that spring and summer, referring to the State Guards as Clayton’s “Black Guards.” Night-riding activities of the Klan and other clandestine organizations were well known by May and June. The legislature responded with Senate Bill 15, which would define and punish “acts against the public peace and tranquility.” With Mason’s vote, the Senate unanimously passed the bill twenty-three to zero on July 8.¹¹⁶ The intent of the law to respond to night-riding activities is clear, because the first sentence begins, “That if any person, at late and unusual hours of the night time, maliciously or willfully disturb the peace or quiet of any neighborhood or family by loud or unusual noises ...” The law’s last clause made it a high misdemeanor to draw a pistol, gun, or any other deadly weapon upon another person for the purpose of intimidation or hindering them from doing any lawful act.¹¹⁷ This was at a time when state agents had begun fanning out across the state to register voters for the forthcoming elections.

¹¹³ *House Journal* 1868-89, 358-59.

¹¹⁴ *Acts of Arkansas*, 45, 47.

¹¹⁵ *Arkansas Gazette*, April 25, 1868.

¹¹⁶ *Senate Journal* 1868-69, 153.

¹¹⁷ *Acts of Arkansas*, 215, 218.

After the General Assembly reassembled on November 17, the House announced by resolution its support for Clayton's martial-law declaration. All five of the black House members were present and voted to support the governor on November 23.¹¹⁸ On November 27, Grey introduced a resolution supporting the declaration that included a clause regarding the successful protection citizens, "without regard to race, color or previous condition, are protected from violence and outrage."¹¹⁹ On November 30, a motion to table the resolution passed in spite of opposition from Grey, Hawkins, Rush and Samuels; White was absent.¹²⁰

The black House members not only favored martial law but they supported the troops, as well. On December 17, just before the Christmas recess until mid-January, the House approved an appropriation to the state's military fund to defray the expenses of the militia. The vote was fifty-one to three, and all five black House members voted for the bill.¹²¹ In the Senate, Mason supported a different bill that would appropriate \$50,000 to defray the expenses of the militia. It passed fifteen to three on February 8, 1869.¹²² Three days later, the House voted forty-nine to fourteen to approve the bill, with Grey, Hawkins, Rush, and Samuels all in support; White was absent.¹²³ The bill became Act 17 of 1869.

Reports of abuses by the militia, combined with a political split between Clayton and House Speaker John G. Price over the martial-law declaration, became a hot issue in the winter of 1869. But black legislators stood by Clayton. A bill was introduced to give

¹¹⁸ *House Journal* 1868-69, 9-10.

¹¹⁹ *House Journal* 1868-69, 45, 46.

¹²⁰ *House Journal* 1869, 62-63.

¹²¹ *House Journal* 1868-69, 207.

¹²² *Senate Journal* 1868-69, 459.

¹²³ *Ibid.*, 444.

thanks to a militia commanded by Robert F. Catterson (a House member) for restoring peace in south Arkansas. Members of the Arkansas House of Representatives gathered on January 11, 1869, to debate House Resolution 131. Grey stood to praise the resolution. The House needed to recognize “the brave men who have maintained the government of the State of Arkansas. By their efforts they have today placed Arkansas in the front rank of reconstructed states,” according to Grey.¹²⁴ He later noted during his lengthy speech that the militia drew both white and black volunteers. “These men cannot say it was ‘Clayton’s nigger militia’ as it was *white men* (recorder’s emphasis), that had heard the sound of war before, that came forth.”¹²⁵

White supported Clayton’s decision to call up the militia and spoke at length on the House floor. He mourned that “the lives of negroes do not amount to as much as the lives of white men,” but through the actions of the militia the “humblest citizen of the State of Arkansas—the loyal citizen, though he be humble and ignorant—shall be safe from the attacks of these Ku-Klux Klans.”¹²⁶ Though Republican House member A. M. Johnson—who had gone on record to oppose the segregated school system—had been murdered in August, the remarks by Grey and White indicate they were not intimidated by terror groups.

After a series of debates that lasted throughout the week, the House agreed to the resolution with unanimous black support on January 19.¹²⁷ The final word on martial law came on March 26, when the House approved Senate Bill 112, an “act to declare valid

¹²⁴ *Debates in the House of Representatives of the State of Arkansas, on the Resolution Tendering the Thanks of the House to Brig.-Gen. Catterson and Command for Their Services* (Little Rock: John G. Price, Public Printer, 1869): 8.

¹²⁵ *Ibid.*, 13.

¹²⁶ *Ibid.*, 66.

¹²⁷ *House Journal* 1869, 62-63.

and conclusive certain proclamations of the Governor of the State of Arkansas and acts done in pursuance thereof his orders in the declaration of martial law.” Grey, Rush, Samuels, and White all supported the bill; Hawkins was absent.¹²⁸ The Senate had passed the bill on February 20 by a vote of fifteen to two; Mason was absent.¹²⁹ The bill became Act 60 of 1869.

The Republican Party had dominated the 1868 fall elections, but resistance to the Catterson resolution from some white party members displayed cracks in the Republican façade. On February 16, a special House committee on public printing accused Price—proprietor of the Little Rock *Republican*—of charging the General Assembly exorbitant prices for his newspaper and accepting bribes, among other things.¹³⁰ All five black House members seemed to side with Clayton’s faction, joining with the majority in voting to re-open the public printing contract for bid, effectively firing Price. But at least one seemed to regret the decline in party unity. Rush, in an uncharacteristic move, submitted an explanation of his vote for the record on the printing contract. “I must confess that it has been my unfortunate lot heretofore, to be like the little boy who sat in the corner and said nothing,” Rush wrote. “But on this occasion I deem it proper to depart from my usual custom.”¹³¹ In an elegantly written four-paragraph statement, Rush expressed disappointment with the bickering Republicans and made a plea that would go unanswered:

“Now, sir, as I am a member of the Republican party, and am a black Republican, not only by principle, but also by nature; and as

¹²⁸ *House Journal* 1868-69, 788.

¹²⁹ *Senate Journal* 1868-69, 497.

¹³⁰ *House Journal* 1868-69, 471-72.

¹³¹ *House Journal* 1869, 489.

the people, whom I have the honor to represent, in making their selections selected honorable, reliable and staunch patriots, who promised to stand by them at the sixth hour, and in the seventh forsake them not. I, for one, propose to be true to my trust; and further, I am opposed to the organization of a third party by subtracting from the Republican party.”¹³²

The House, with support from the black members, removed Price as speaker later in the session. The action moved the backroom arguments between Republicans in Arkansas into the House chamber. Almost immediately after the session adjourned, a group of Republicans splintered off to form the state’s Liberal Republican Party. It included Richard Samuels, one of the earliest indications of a breakdown of black solidarity.

¹³² *House Journal* 1869, 490.

III. CRACKS IN THE FACADE

The Arkansas General Assembly in 1871 saw considerable change in the black delegation. There were more African American lawmakers, thirteen, and only two returned from the previous session. Gone were William H. Grey, Monroe Hawkins, Anderson Rush, and Richard Samuels. James T. White moved from the House to the Senate, joining the reelected James W. Mason. Movement in and out of office among southern black officeholders was common in the nineteenth century. Turnover from one session to the next often exceeded 50 percent, according to Eric Foner. The phenomenon, in his words, reflected the “departure of some individuals in the face of economic coercion or violence, and the intense competition for office as ambitious new leaders emerged at the local level.”¹³³

As a group, the new black lawmakers were notably older, with at least four fifty years of age or more in the House. Unlike Grey, Mason, and White, all were either born slaves or can be presumed to have been former slaves, based on their ages and places of birth. Half were identified as black, a slight increase from the previous session where at least four of the six were mulatto. As a group, these legislators were similar to their 1868-69 predecessors in their property-holding; ten of the thirteen had reported taxable property on the 1870 Census, and five had claimed property valued at more than \$1,000: Mason and White in the Senate and Austin Barrow, Edward A. Fulton and Jeff Haskins in the House.

Born about 1815, James M. Alexander, Sr., was the oldest African-American House member in 1871, representing Phillips County. He was born a mulatto slave in

¹³³ Foner, *Reconstruction*, 362.

North Carolina, where his master taught him how to read and write. After his owner brought him to Arkansas, Alexander was allowed to open a barbershop in Helena. Alexander, who was active in the African Methodist Episcopal Church and the Colored Masons, bought his freedom and that of some members of his family in 1860. Being a free person in Arkansas in 1860 was highly unusual. The year before, the legislature had voted to expel free people of color. The 1860 Census showed only 144 free black people out of a total state population of 435,450.¹³⁴ The patriarch of one of the state's most notable African-American families, Alexander was the first black Arkansan to serve as a justice of the peace, a school trustee, and a grand jury member.¹³⁵

Conway Barbour, fifty-three and a representative from Lafayette County, was born in Virginia and was also of mixed race; it has been assumed he was a slave.¹³⁶ In 1869, he traveled to Arkansas from Illinois to find opportunities for other black families willing to relocate there.¹³⁷ Upon his return to his hometown of Alton, Barbour reported his trip to the editor of the Alton *Telegraph*, who identified him as the "former well known proprietor of the Union Hotel." Barbour told the newspaper that Arkansas offered "great inducements to immigrants." "The government lands can be got without money," Barbour wrote. "A man can easily pay for the land while clearing it. If men work on land shares any longer, it is their own fault."¹³⁸ According to the *Telegraph*, Barbour observed, "blacks and whites are living together in the most harmonious and pleasant

¹³⁴ University of Virginia Library Historical Census Browser, <http://mapserver.lib.virginia.edu/> (accessed March 14, 2010)

¹³⁵ Foner, *Freedom's Lawmakers*, 3-4; Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," Table 3.

¹³⁶ Foner, *Freedom's Lawmakers*, 12; Wintory, "African-American Legislators in the Arkansas General Assembly, 1868-1893," Table 3.

¹³⁷ Little Rock *Republican*, July 24, 1869.

¹³⁸ *Ibid.*

relations.”¹³⁹ According to the census of 1870, he owned no property but worked as a life insurance agent.¹⁴⁰

Thirty-three-year-old Austin Barrow of Helena, who represented Phillips County, reported \$3,800 in taxable property in 1870, quite a nice sum at that time.¹⁴¹ Existing records indicate Barrow was at various times a blacksmith, a sheriff, and a county assessor. In spite of his wealth, it appears Barrow, like hundreds of other black Arkansans, grew disenchanted with the state and sought a better life in Africa. In February 1880, Barrow and his family of seven appeared at the New York office of the shipping company used by the American Colonization Society for its Liberia voyages.¹⁴²

Drew County representative Edward A. Fulton, a Kentucky native, was a forty-year-old former slave and a census taker in 1870. Fulton reported he owned \$1,000 in real estate and \$250 in personal property that year. Reflecting the growing division among Republicans, he ran for secretary of state in 1872 as a member of the Liberal Republican ticket.¹⁴³

Jeff Haskins, a fifty-one-year-old farmer, represented Crittenden, Saint Francis and Woodruff counties. A native of North Carolina, he was likely a former slave. He

¹³⁹ *Ibid.*.

¹⁴⁰ Foner, *Freedom's Lawmakers*, 12.

¹⁴¹ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

¹⁴² Kenneth C. Barnes, *Journey of Hope: The Back-to-Africa Movement in Arkansas in the late 1800s* (Chapel Hill and London: The University of North Carolina Press, 2004): 25. Barrow, told to wait for the next ship, was forced to find temporary work in New York while awaiting passage. It is not known whether he sailed to Liberia.

¹⁴³ Foner, *Freedom's Lawmakers*, 79; Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

reported \$1,320 in taxable property in 1870.¹⁴⁴ Fellow farmer Adam R. Johnson of Crittenden County, who was born sometime between 1825 and 1830, joined Haskins in representing District 9. The Mississippi native had probably been a slave.¹⁴⁵

Historians have yet to pin down definitive information for Americus Mayo, who represented Monroe County.¹⁴⁶ He might have been born as a slave in Virginia in 1820. He was identified as either “black” or “mulatto.” He reported \$250 in taxable property in 1870. Mayo could have been a farmer as well as a minister. Census takers recorded him as literate in 1870 but illiterate in 1880.¹⁴⁷

Carl R. Polk, a farmer, was the rare black legislator who identified Arkansas as his native state. He was born about 1850, probably as a slave. He represented Jefferson County. In 1881, Polk would return to the House as a representative of Jefferson County as part of a fusion agreement orchestrated by the county’s Republican and Democratic leaders.¹⁴⁸ Another 1871 representative who later returned to the House was Desha County’s James A. Robinson, who also served in the first post-Reconstruction session of 1874-75. Robinson, born about 1836, was also a native Arkansan and a former slave. He was a merchant in 1870 and reported \$500 in taxable property.¹⁴⁹

¹⁴⁴ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

¹⁴⁵ *Ibid.*

¹⁴⁶ Mayo has been identified as “Americus Mayes” in some historical accounts, such as Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893.” But he responded to the daily roll call in the House as “Americus Mayo” and signed at least one document as that way.

¹⁴⁷ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

¹⁴⁸ *Ibid.*; James W. Leslie, “Ferd Havis: Jefferson County’s Black Republican Leader,” *Arkansas Historical Quarterly* 37 (Autumn 1978): 245.

¹⁴⁹ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

Forty-seven-year-old John W. Webb, representing the district comprising Ashley, Chicot, Drew, and Desha counties, was a native of Kentucky and likely a former slave. The biracial Webb toiled as a farmer and farm laborer. At one point he served as a justice of the peace. Webb reported \$150 in taxable property in 1870.¹⁵⁰ Minister William H. Young, who represented the district encompassing Bradley, Jefferson, and Grant counties, was born about 1844—and probably a slave—in Tennessee or Kentucky. He reported \$600 in taxable property in 1870, but that figure had dropped to \$25 in 1883. As part of a fusion agreement, Young returned to the House representing Jefferson County in 1883.¹⁵¹

Generally, this group of black lawmakers exhibited less solidarity than the previous session's black delegation on certain issues, dividing their votes between the regular Republican faction of the state and the conservative side of the State House, which included Democrats and Liberal Republicans.

Black representatives were spread across the eighteen standing committees in the House, and in only four instances were there more than one appointed to the same committee: Johnson and Webb on roads and highways, Alexander and Fulton on federal relations, Young and Haskins on cities and corporations, and Barrow and Polk on immigration. In the Senate, Mason chaired the appointments and claims committees, while White chaired the important franchise committee.

Although Arkansas had adopted a civil-rights act in 1868, it appears at least one black legislator was not satisfied with its enforcement. Mason took up the issue of civil rights late in the session. On March 22, he introduced “An act to punish public carriers

¹⁵⁰ *Ibid.*

¹⁵¹ Leslie, “Ferd Havis: Jefferson County’s Black Republican Leader,” 245.

for refusing persons passage, etc.”¹⁵² The bill, intended to replace Act 15 of 1868, was referred to the judiciary committee on March 23. Mason and White were among the fifteen senators who passed the bill when it came to a vote on March 24—the next-to-last day of the session. The bill never got to a vote in the House, and it died with the end of the session. Black legislators would have to wait until the 1873 General Assembly to seek a more expansive civil-rights bill.

While black legislators continued to seek laws that would provide avenues for social equality, they divided over voting rights for ex-Confederates. This trend reflected the growing disagreement in the Republican Party over the franchise. Arkansas’s two black state senators explicitly encouraged the removal of such political disabilities. White even moved that they be removed for two of the most prominent Arkansas Confederates. Some black members of the House seemed to agree by voting for such bills as they came up. But others refused in almost all cases to support such measures.

On January 12, Alexander—the respected barber from Helena—gave notice that he would introduce a bill that would remove the political disabilities of certain citizens of Phillips County; he never presented it. On March 9, White introduced a bill that would remove the disabilities of James Camp Tappan of Helena. At the outbreak of the war, Tappan had joined the Confederacy and was commissioned as a colonel in the Thirteenth Arkansas Infantry Regiment. He later commanded a brigade in General Thomas J. Churchill’s Arkansas Division.¹⁵³ Mason moved to amend the bill by adding the names

¹⁵² *Journal of the Senate of Arkansas. Eighteenth Session, Begun at the Capitol, at Little Rock, on the Second Day of January, A. D. 1871* (Little Rock: Price & McClure, Public Printers, 1871): 332.

¹⁵³ David Sesser, “James Camp Tappan (1825-1906),” *The Encyclopedia of Arkansas History and Culture*, encyclopediaofarkansas.net (accessed March 25, 2010).

of thirty-three Chicot County residents, but the motion failed.¹⁵⁴ Mason and White both voted for the bill as it passed the Senate seventeen to six on March 15.¹⁵⁵ When the bill reached the House on March 24, two black representatives from Tappan's home county of Phillips voted in favor—Alexander and Barrow—along with Barbour, who had not lived in Arkansas until after the war. Meanwhile, former slaves and small property-holders Johnson, Mayo, Polk, Robinson, and Young all opposed the bill. Fulton, Haskins, and Webb were among the forty members absent or not voting, but the bill passed twenty-seven to fifteen with the thinnest of quorums present.¹⁵⁶ The bill, which became Act 67 of 1871, represented only one of two acts from the session that originated with a black lawmaker.

White had tried to add Tappan to a bill earlier in the session that would remove the disabilities of Elbert H. English of Little Rock, who served as chief justice of the Arkansas Supreme Court before the war and under the state's Confederate government. In spite of Mason's support, White's amendment to Senate Bill 54 failed by a vote of seven to eleven on March 1. Mason and White voted with the overwhelming majority the next day as the bill passed fifteen to two.¹⁵⁷ With eight black legislators voting for its approval, the bill cruised through the House fifty-seven to ten on March 10. Polk and Robinson, the merchant from Desha County, voted for its rejection.¹⁵⁸ The bill became Act 9 of 1871.

¹⁵⁴ *Senate Journal* 1871, 88, 243-44.

¹⁵⁵ *Ibid.*, 279-80.

¹⁵⁶ *House Journal* 1871, 981-82.

¹⁵⁷ *Senate Journal* 1871, 204-6.

¹⁵⁸ *House Journal* 1871, 673.

On two occasions White and Mason went beyond voting for the removal of disabilities and actually presented petitions seeking it. On February 14, White presented a petition from Pulaski County residents, praying for removal.¹⁵⁹ The action was somewhat curious considering White did not represent the county. A possible explanation was that we was acting in his capacity as chairman of the Senate Franchise Committee. On March 6, Mason presented a petition praying for the removal of disabilities from certain citizens of Ashley County.¹⁶⁰

Lawmakers consolidated such petitions into an omnibus bill and debated the topic into the final hours of the session. The bill, which contained the names of about two hundred residents, passed the House on March 21 with the votes of Alexander, Barbour, and Polk. But among the six opposed to the bill were Fulton, Mayo, and Robinson. Also, Barrow, Haskins, Johnson, and Webb were among thirteen representatives who were absent or did not vote.¹⁶¹ In the Senate, on the last day of adjournment, Mason joined fifteen other senators in a sixteen-to-two vote to approve the bill; White did not vote.¹⁶² The bill became Act 70 of 1871. Black representatives remained divided on a separate political disabilities bill filed late in the session. On March 24, Alexander, Barbour, Barrow, Haskins, and Young voted “aye” and Fulton, Johnson, Mayo, Polk, Robinson, and Webb shouted “nay” in the roll call of the substitute for House Bill 206.¹⁶³ The bill was not reported to the Senate.

¹⁵⁹ *Senate Journal* 1871, 168.

¹⁶⁰ *Ibid.*, 223-24.

¹⁶¹ *House Journal* 1871, 880-81.

¹⁶² *Senate Journal* 1871, 379.

¹⁶³ *House Journal* 1871, 945.

It is not clear what caused the differences among Arkansas's black lawmakers regarding political disabilities. Only one distinct pattern emerges from their voting records: Alexander and Barbour in the House and White and Mason in the Senate consistently voted to lift the office holding obstacles for ex-Confederates. Mason's own family had benefited by official forgiveness; his father, the slave-holding Elisha Worthington, having received a special pardon from President Andrew Johnson on January 31, 1866.¹⁶⁴ It could be that these four legislators represented a growing Republican sentiment to court white votes. As Eric Foner has found, black lawmakers did not seem as interested in disfranchising former Confederates as other Republicans, especially those from upcountry areas. Many black officeholders "seemed uncomfortable with a policy that appeared to undermine the party's commitment to manhood suffrage," according to Foner.¹⁶⁵ From their backgrounds, it appears that each of Arkansas's black opponents to continued disfranchisement were among the most educated, accomplished and wealthiest black assemblymen. All four were also mulatto. As historian Thomas Holt has shown in South Carolina, wealthy, light-skinned black lawmakers tended to be more ideologically aligned with the white elite than the black laboring class.¹⁶⁶ On this particular issue, this could be the case in Arkansas. Or the differences within the black delegation may simply have reflected the larger division within the Republican Party over the issue.

Black lawmakers got involved in party factionalism in another way. From the time he was elected governor, Clayton had annoyed his political opponents by both his

¹⁶⁴ Gatewood, *Shadows Over Sunnyside*, 8.

¹⁶⁵ Foner, *Reconstruction*, 324.

¹⁶⁶ Holt, *Black Over White*, 4.

status as an Arkansas outsider and as his fervent support of the Republican “New South” platforms. Liberal Republicans had joined Democrats in charging Clayton with, in Thomas DeBlack’s words, “extravagance, mismanagement, corruption, and abuse of his power, particularly as it related to his role as commander in chief of the militia.”¹⁶⁷ Clayton had indeed made use of the expanded powers of the governorship provided by the Constitution of 1868. Accusations of widespread fraud by the Clayton election machinery in 1870 further incited his enemies. Black legislators became involved with their white colleagues in 1871 in the impeachments of Clayton, Lieutenant Governor James M. Johnson, and John McClure, chief justice of the Arkansas Supreme Court. Two black lawmakers joined the coalition of Democrats and Liberal Republicans in attempting to oust Clayton through impeachment. But the rest stood united in defending Clayton. The first impeachment activities began in January against Johnson. The story behind the impeachment is somewhat complicated, but historians have shown that it was a political maneuver orchestrated by Clayton allies.¹⁶⁸ Clayton had been elected to the U. S. Senate by the legislature on January 10, but he did not want to resign while the scalawag Johnson, a political enemy, could take the governor’s seat. Black lawmakers divided on the issue of proceeding against Johnson on January 31, when eight black representatives—Alexander, Barbour, Barrow, Mayo, Polk, Robinson, and Young voted in vain to keep the articles of impeachment alive against the lieutenant governor. Fulton, Haskins, and Webb, who began voting regularly with the Liberal Republican faction of the House, voted with the majority as the bill to indefinitely postpone the proceedings

¹⁶⁷ DeBlack, *With Fire and Sword*, 212.

¹⁶⁸ *Ibid.*, 213; Orval Truman Driggs, Jr., “The Issues of the Powell Clayton Regime, 1868-1871,” *Arkansas Historical Quarterly* 8 (Spring 1949): 70.

against the lieutenant governor passed forty-right to thirty.¹⁶⁹ On February 10, Fulton defended his beliefs on the floor of the House. Rising to speak to the hall, Fulton said “he had heard it stated by members of the floor of the House, and by persons on the street, that he had sold out to the democracy.” He called such offenders “scoundrels and liars” and promised “he was a republican and always intended to be one. He was sent by his constituents to represent their interests, and he intended to do what *he* (recorder’s emphasis) thought to be right.”¹⁷⁰

The attempt to impeach Johnson had failed. Now it was the Liberal Republicans’ turn for political retribution. On February 16, William B. Padgett rose to submit articles of impeachment against Clayton. The articles included allegations of misconduct in the case of the attempt to remove Johnson and malfeasance in accepting kickbacks from railroad companies selected for state subsidization. The document recommended that five representatives, including Fulton, be appointed House managers to investigate the charges. Fulton and Haskins joined Democrats and Liberal Republicans in supporting the impeachment, and the motion passed forty-two to thirty-six. Alexander, Barbour, Barrow, Mayo, Polk, Robinson, and Young voted to reject it. A raucous scene apparently developed during and after vote. Haskins asked to be excused from voting, but the House refused his plea. Webb also asked to be excused and was also refused. But he continued to decline to vote. The House then stopped the roll call to vote on the question of whether Webb should be excused from voting. The House agreed, with the support of

¹⁶⁹ *House Journal* 1871, 237-38.

¹⁷⁰ *Ibid.*, 307.

Fulton and Haskins, to excuse Webb. The same black legislators opposed to the impeachment also voted to reject Webb's request.¹⁷¹

The House immediately proceeded to a second motion to suspend Clayton from his duties as governor in light of his impeachment. In this case, Fulton stood alone among the black House delegation to support the suspension. Haskins voted no, as did Alexander, Barbour, Barrow, Mayo, Polk, Robinson, Webb, and Young. Johnson did not vote. The motion passed, forty-two to thirty-eight. Barbour sent a written explanation of his vote to the clerk. It read: "While I am willing to vote for the impeachment of any person that lives, I will vote against this for these reasons: First. No law. Second. No precedent. Third. No evidence."¹⁷²

On February 18, Padgett rose again to bring articles of impeachment against McClure, a fierce Republican partisan and strong Clayton ally. With Fulton absent, Haskins was the lone black voice among the majority who voted to impeach the chief justice. Alexander, Barbour, Barrow, Mayo, Robinson, Young and Polk—whose request to be excused from voting was denied—voted to reject the motion, but it passed forty-four to thirty. Barbour again submitted a written explanation of his vote, describing the articles against McClure as "not valid, none of the same are valid, so I see nothing before the House." Fulton was appointed as one of the five House managers to investigate McClure.¹⁷³

The articles against Clayton and McClure had passed the House but they needed to be reported to the Senate, where an impeachment trial would take place. Mason and

¹⁷¹ *Ibid.*, 369-75.

¹⁷² *Ibid.*, 376-77, 381.

¹⁷³ *Ibid.*, 408-09, 416.

White joined several other senators who did not show up on February 17 and February 20-21. With no quorum, the Senate simply adjourned each day without accepting the impeachment articles. Mason appeared on February 22 but was absent again the next day. The walkout continued until February 25, when White, Mason, and twenty-two other senators answered the roll call.¹⁷⁴ On February 27, John Clayton, a member of the House and Powell's Clayton's brother, made a motion that impeachment articles had never been presented to the Senate and the House managers needed to make another attempt. The black vote on the motion was predictable: Fulton and Haskins, who supported impeachment, opposed the motion, while Clayton allies Alexander, Barbour, Barrow, Johnson, Mayo, Polk, and Robinson supported the motion. It passed, forty-six to twenty-eight.¹⁷⁵

The pendulum had swung back in favor of Clayton. On March 1, an exasperated House committee on his impeachment reported that it had properly proceeded to the Senate and would not do so again. As a result, the House considered a resolution to replace the managers. Fulton, Haskins, and Johnson supported the motion and it passed forty-three to seventeen. But Alexander, Barbour, Barrow, Mayo, Polk, and Robinson voted against the motion, and Barbour explained that the action let the managers off the hook. "[T]his is a dodge to get rid of their elephant," he explained. "Their names were brought in with the articles of impeachment; the wish to get out is a dodge to get their articles out. I therefore vote to get rid of them." Barbour's dart drew a quick objection and led to a vote that it not be included in the House Journal. The House rejected the

¹⁷⁴ *Senate Journal* 1871, 179-86.

¹⁷⁵ *House Journal* 1871, 481-82.

motion, forty-two to twenty-eight, with Fulton and Haskins objecting to the remark and the six other black members present supporting it.¹⁷⁶

The new impeachment committee reported three days later that it had not found hard evidence in the allegations against Clayton and recommended the impeachment to be stopped. The recommendation drew the overwhelming support of the majority of black representatives, as Alexander, Barbour, Barrow, Haskins, Johnson, Mayo, Polk, Robinson, and Young lined up to support the end of the proceedings. None of the black members voted against the recommendation; Fulton and Webb did not vote.¹⁷⁷ Fulton and Haskins—two of the three black representatives who reported more than \$1,000 in taxable property in 1870—had sided with House Democrats and Liberal Republicans in five of the six most important votes regarding impeachments in 1871. Their relative wealth perhaps explains their attraction to a Liberal Republican emphasis, especially in the South, on lowering property taxes by throwing out corrupt, spendthrift Reconstruction governments.¹⁷⁸

After the smoke had cleared, several representatives—including eight of the eleven black lawmakers, submitted written explanations of their votes for the legislative record. The writings presented here provide a rare insight into the personalities and ideologies of some of these lawmakers and a rare opportunity to hear their voices. Alexander wrote the impeachment committee was “attempting to carry out an act of lawlessness and downright political persecution, without a scintilla of evidence to justify the moving of the resolution,” and the managers were the “meanest set of lickspittles and

¹⁷⁶ *Ibid.*, 516-18.

¹⁷⁷ *Ibid.*, 540-41.

¹⁷⁸ For an overview of the Liberal Republican movement in the South and the North during this period, see Foner, *Reconstruction*, 488-511.

Spanish poodles that can be found in this state.” Barbour called the impeachment a “self-evident political trick, planned and inaugurated for the purpose of placing the Lieutenant Governor in the chair as Governor. I know that the parties who got up this trick had no political existence, but were digging in the dirt to get a foundation upon which to erect a political temple, and exhausted their means in digging the hole, leaving them no recourse but to tumble in, ask the fresh dug dirt to fall in upon them and cover their shame.”¹⁷⁹

Barrow, writing that he knew Clayton before Clayton became governor, called the proceedings the result of a “scheme to disintegrate the republican party, and turn over our state to democratic control.” He described the impeachment as “an injury to the state.” Polk was the only black lawmaker to cite Liberal Republicans as complicit in the impeachment, and he considered the issue a strike against the Radical Republican form of good government, “since the proceedings in this case have been carried on to the great detriment to the state; the suspension of her improvements, the injuring of her credit and the delaying of needed legislation.” Young echoed the sentiments of Barrow and Polk. “[T]he course the Legislature has been pursuing has been highly detrimental to the best interests of the people, the principles of republicanism, and the standing of the state abroad financially, politically and morally.”¹⁸⁰

Agreeing with his black colleagues, Johnson wrote the impeachment was “for the sole purpose of carrying out certain political purposes, and were based on nothing in law or fact worthy of credit.” According to Robinson, the charges “were more for a political purpose than a cause of justice and right.” Perhaps he spoke for many black Arkansans when he called the former Union general “a tried patriot, of honorable republican

¹⁷⁹ *House Journal* 1871, 548.

¹⁸⁰ *Ibid.*, 549, 558, 585.

principles, one whose name will long be remembered by all lovers of freedom and justice; one whose name will be engraved on the walls of liberty, justice and right.”

Young, the minister from Pine Bluff, wrote that his neighbor “is willing to further the interests of the common people, without regard to ‘race or color.’”¹⁸¹

And then there was Mayo, whose concise and eloquent explanation demands to be included in full:

“*Mr. Speaker:* I came here to try and relieve my constituents from the burden of a high rate of taxation, and know that the impeachment proceedings are adding weight to that burden. I came here to help sustain the credit of the state, and I know that they are impairing that credit. I came here to assist to procuring much-needed legislation, and know that they are impeding that legislation. I came here to observe the law and respect the constitution, and regard them as in violation of both, in that they were instituted, confessedly, without any shadow of evidence. Furthermore, I regard them as being simply a democratic invention for the purpose of damaging the reputation of an Executive whose administration has been the most successful of that of any of the governors of the reconstructed states, and under whose leadership the republican party has held control of the state and carried her up to a high degree of prosperity; and for this reason, as well as the others, on the adoption of the resolution to dispense with further proceeding, I vote Yea.”¹⁸²

Clayton, who had declined the legislature’s election to the U. S. Senate on March 4, was again elected senator on March 14, but the vote was much closer than in January

¹⁸¹ *Ibid.*, 555, 559, 585.

¹⁸² *Ibid.*, 556.

and he was elected on the strength of the black vote. He received forty-two votes, two more than needed for election, with Alexander, Barbour, Barrow, Johnson, Mayo, Polk, Robinson, and Young helping provide the margin of victory. James T. White received votes from the anti-Clayton wing of the black caucus: Fulton, Haskins, and Webb. Democrat Daniel J. Smith of Columbia County also voted for White.¹⁸³ By this time, Clayton had directed a shuffle of constitutional officers, wherein a regular Republican would take over the governorship. Johnson, in a surprise move, resigned to take the recently vacated office of secretary of state. Ozro Amander Hadley, a Clayton ally and president pro tem of the Senate, rose to become lieutenant governor. Hadley then succeeded to the governor's chair when Clayton resigned on March 17. He remained acting governor until 1873.

One of the key allegations against Clayton was his involvement in the issuing of state aid for railroads. Arkansas's black lawmakers continued to join their white colleagues in expressing an interest in railroad operations within the state. But reform-minded Liberal Republicans and Democrats increasingly complained railroad companies were accomplishing little with the millions of taxpayer-supported bonds issued to them to expand the state's lines. Their arguments resonated among blacks and whites alike in the 1871 legislature.

Some black legislators maintained their suspicion of railroad operators to the session's very end, in contrast to the railroad enthusiasm shown by the black delegation in 1868-69. For example, on March 21 six black representatives [Alexander, Barrow, Fulton, Mayo, Webb, and Haskins] all opposed a bill that would authorize cities and

¹⁸³ *Ibid.*, 715-17.

incorporated towns to subscribe to railroad stock.¹⁸⁴ On March 8, Mason was one of three senators who opposed Senate Bill 38, which would extend the time for railroads to complete their state-funded work. The proposed law passed seventeen to three.¹⁸⁵ On March 24, the day before adjournment, Barbour, Barrow, Robinson, and Webb all opposed the bill. Alexander, Johnson, Mayo, Young, and Polk supported the bill in a thirty-one to seventeen vote.¹⁸⁶ It became Act 57 of 1871.

The black delegation was less divided on another major component of the Republican Party's internal-improvement program in the state: levees. DeBlack observes, "Frequent flooding had been a major problem for Arkansans living along the state's major rivers, ruining crops and keeping fertile land out of production."¹⁸⁷ Most black lawmakers lived in these areas, and they generally supported two significant levee bills, including one brought forth by White. Not a single black representative opposed House Bill 50 on March 16, a measure that would provide for the widespread building and repairing of levees in the state. The bill passed, forty-seven to twenty-four, and several members submitted written explanations of their votes, including the loquacious Barbour. He smartly defended his vote: "I vote Aye, because the United States gives this state five million acres of land to build these levees, and if they do not build these levees she (this state) is not entitled to the land. ... Besides with levees, the lands are assessed at fifty dollars per acre, and without the levees they are assessed at five dollars per acre."¹⁸⁸

¹⁸⁴ *House Journal* 1871, 861.

¹⁸⁵ *Senate Journal* 1871, 240.

¹⁸⁶ *House Journal* 1871, 978-79.

¹⁸⁷ DeBlack, *With Fire and Sword*, 209.

¹⁸⁸ *House Journal* 1871, 757-58.

White opposed the levee bill in the Senate on March 21. Mason did not vote as it passed fourteen to five.¹⁸⁹ White's dissent was not elaborated in the Senate Journal, but it was curious nonetheless considering his own levee bill cruised through the House and Senate and became law. Another improvement proposal drew black opposition. In the Senate, Mason and White opposed a bill that would have provided for the improvement of the Black River in northeast Arkansas; the vote tied nine to nine on March 21 and lost.¹⁹⁰ It was not determined whether the lawmakers rejected these bills for practical or political purposes.

As in the preceding assembly, the state's African-American legislators also displayed unity in supporting the state's nascent system of free schools in addition to creating colleges and universities. On January 12, Robinson gave notice that he would introduce a bill that would require justices of the peace to turn over all their fees and fines to their county in order to benefit a school fund.¹⁹¹ A white legislator seized on the idea and introduced House Bill 59 on January 31, which would funnel all sorts of local fees and fines into a general school fund. On March 15, ten of the eleven black House representatives supported the measure, now called "An act to provide for the more efficient collection of the public school fund in the State of Arkansas," as it unanimously passed the body sixty-seven to zero.¹⁹² Mason and White opposed the bill, however, when it made its way to a Senate vote on March 17. Despite their opposition, it passed fourteen to six and became Act 28 of 1871.¹⁹³ Although they did not explain their votes,

¹⁸⁹ *Senate Journal* 1871, 315-16.

¹⁹⁰ *Senate Journal* 1871, 318.

¹⁹¹ *House Journal* 1871, 116.

¹⁹² *Ibid.*, 735-36.

¹⁹³ *Senate Journal* 1871, 302.

both White and Mason had at various times in 1868 opposed the school system bill and its clause for the segregated schools. Perhaps their hard feelings continued to linger three years later. Mason and White both supported an education bill that included no race restrictions, Senate Bill 8, “An act to incorporate institutions of learning.”¹⁹⁴ The bill, which became Act 42 of 1871, legalized the formation of private schools, including colleges. It gave such institutions the power to confer diplomas and degrees.¹⁹⁵ Ten black House members voted for the bill on March 21 as it passed forty-seven to fifteen.¹⁹⁶

Black legislators strongly supported the act that created the state’s land-grant university, perhaps the most important and enduring piece of legislation to come out of the 1871 session. The act provided for the process by which the university would be located—cities, towns, counties and even individuals could bid for the institution’s placement. It also provided for the creation of a board of trustees that would oversee the creation and operation of the school. The board’s powers varied from determining its location to approving the erection of its buildings and fixing the salaries of its employees.¹⁹⁷ On March 23, both Mason and White were among the nineteen Senators who unanimously passed Senate Bill 79, “An act to establish the Arkansas Industrial University.”¹⁹⁸ Eight of the eleven black representatives voted for the bill in the early morning hours of March 25. Alexander—whose five children all attended Oberlin

¹⁹⁴ *Ibid.*, 207.

¹⁹⁵ *Acts, Resolutions and Memorials of the General Assembly of the State of Arkansas, Passes at the Session Held at the Capitol, in the City of Little Rock, Commencing on the Second Day of January, A. D. 1871, and Ending on the Twenty-Fifth Day of March, A. D., 1871.* (Little Rock: Price & Barton, Public Printers, 1871): 196-198.

¹⁹⁶ *House Journal* 1871, 869-70.

¹⁹⁷ *Acts of Arkansas* 1871, 201-02.

¹⁹⁸ *Senate Journal* 1871, 345.

College in Ohio¹⁹⁹—joined Barbour, Barrow, Polk, Mayo, Johnson, Robinson and Young in approving the landmark bill. Taking up the bill at midnight, the House passed the bill thirty-nine to two, with Fulton, Haskins, and Webb joining thirty-seven other representatives absent or not voting.²⁰⁰ Acting governor Hadley signed the bill on March 27, making it Act 44 of 1871. Perhaps the law drew united black support—unlike the public school law in 1868—because it did not provide for racial segregation. The university, welcome to all students regardless of race, opened in January 1872 in Fayetteville with one black student in attendance. The legislature would take up the question of integrated higher education in 1873.

In addition to education bills, Arkansas’s black state lawmakers were likeminded in their continuing efforts to promote black immigration to the state. On January 4, White told the Senate that he would introduce a resolution that a special committee be established on immigration.²⁰¹ One week later, he gave notice that he would introduce a bill to establish an agency for the bureau of immigration.²⁰² White explained in a letter to the Little Rock *Republican* that the agency would focus on encouraging black immigration, an area in which he considered the efforts of the current immigration board lacking. “That this class of immigrants is much needed there can be no question,” White wrote, “for it is in the concurrent testimony of all classes of citizens that much of the cultivated acreage of the State suffered severely this year for want of laborers . . .”²⁰³

¹⁹⁹ Foner, *Freedom’s Lawmakers*, 5.

²⁰⁰ *House Journal* 1871, 987-88.

²⁰¹ *Senate Journal* 1871, 10.

²⁰² *Ibid.*, 47.

²⁰³ Little Rock *Republican*, February 15, 1871.

On January 16, White introduced a bill that would amend the 1868 immigration bill to create a special commissioner who would attract black settlers. On March 6, Senate Bill 19 was tabled without a vote. White was undeterred. He brought the bill back up for a vote on March 16 and it passed—with both his and Mason’s vote—fourteen to five.²⁰⁴ The bill never reached a vote in the House, however, and did not become law. However, White’s lobbying for black immigration was not in vain. In November 1872, Hadley appointed William H. Grey, the state representative from Helena in 1868, as the state’s second commissioner of immigration and state lands.

Black representatives seemed just as enthusiastic about immigration as White. On February 21, Haskins, the farmer from the Arkansas Delta, told the House he would introduce a bill providing for a system of homesteads to actual settlers on public lands.²⁰⁵ On March 9, Fulton introduced House Bill 140, which would appropriate state lands for homesteads. Ten of the eleven black House members backed the measure when it came up for a vote on March 23. It passed, thirty-eight to fifteen, with Alexander the lone black representative joining in the dissent.²⁰⁶ Both black senators supported the bill when it passed the Senate thirteen to two on the last day of the session.²⁰⁷ Hadley never signed the bill, however, so it did not become law.

Barbour appeared to draw some admiration from his white colleagues throughout the session. Upon the hearing of a report from the Committee on Counties and County Lines recommending an act to establish Sarber County, Democrat Joseph A. Meek moved to amend the bill to strike the word “Sarber” and replace it with “Haskins.”

²⁰⁴ *Senate Journal* 1871, 66, 266, 291.

²⁰⁵ *House Journal* 1871, 428.

²⁰⁶ *Ibid.*, 644, 934-35.

²⁰⁷ *Senate Journal* 1871, 376.

Whether Meek's move was sarcastic or sincere—Haskins had joined the Liberal Republican wing of the party while the county's namesake, John N. Sarber, was a Claytonite carpetbagger²⁰⁸—is not known. But C. A. Whittemore immediately moved as a substitute for the amendment to strike "Sarber" and replace it with "Barbour."²⁰⁹ Neither amendment was adopted.

In examining their voting records in 1871, Arkansas's African-American state officeholders were not monolithic in either action or thought. Like they had in 1868-69, black members of this General Assembly displayed unity in areas that they saw most immediately bearing on the circumstances of African Americans in the state, such as civil rights, education, internal improvements, and immigration. But the delegation did not agree as often on political matters, such as impeachments or the restoration of voting rights to ex-Confederates.

Although they remained underrepresented in the legislature, it appears Arkansas's black lawmakers were becoming more eager to have their voices heard on matters that involved all three political factions, a trend Foner detects across the South. In his words, "It did not take long for black leaders to become dissatisfied with the role of junior partners in the Republican coalition."²¹⁰ As a result, the state's voters would continue to elect independent-minded black legislators in the next election.

²⁰⁸ Mary Frances Hodges, "John Newton Sarber (1837-1905)," *The Encyclopedia of Arkansas History and Culture*, encyclopediaofarkansas.net (accessed April 12, 2010).

²⁰⁹ *Ibid.*, 811.

²¹⁰ Foner, *Reconstruction*, 352.

IV. A HOUSE DIVIDED

1873 represented the high-water mark for black representation in the state government during the nineteenth century. In the 1872 general election, voters sent sixteen blacks to the House of Representatives, an increase from eleven in 1871, and four senators, a gain of two from the previous session. Reflecting a trend that began in 1868, most black legislators were elected in Delta counties with significant black populations. The others came from Red River plantation counties in the southwest or Pulaski, the state's most populous county, which was more than 40 percent African-American. Four of the five representatives from Phillips and Monroe counties were black. On the western side of the state, two of the three representatives from District 14, comprising Hempstead and Nevada counties, were black, as was one from District 15 (Lafayette and Little River). The Senate's concentration of black power was similarly centered in the Delta, with three senators representing Jefferson, Phillips, and Desha counties, and a fourth representing Pulaski.²¹¹

Less encouraging for the newly elected black assemblymen was the fact that they were gaining power in a Republican Party that was weakening not just in Arkansas, but all over the South.²¹² In 1872, the state's Democrats agreed to support Liberal Republican candidates for the state's constitutional offices and like those in other states, they also supported Horace Greeley for the presidency. But the Liberal Republican-Democratic movement failed to win the governorship—Elisha Baxter, backed by

²¹¹ Arkansas Secretary of State, *Historical Report of the Secretary of State* 2008:133-34.

²¹² Foner, *Reconstruction*, 539.

Clayton's "Minstrel" Republicans, defeated Joseph Brooks—or the legislature, where Democrats and Liberal Republicans made gains but remained the minority.

As in 1871, there was considerable turnover in the black delegation. Only two African Americans were reelected to the legislature in 1872: James T. White in the Senate and Adam R. Johnson in the House. White, a thirty-one-year-old Baptist minister from Helena in Phillips County, and the forty-three-year-old Johnson, a farmer from Crittenden County, apparently represented the two types of black lawmakers who had become attractive to voters: mixed-ancestry, property-owning professionals such as White, and black men from agricultural backgrounds who held little property, such as Johnson. White, like six other black legislators in 1873, had probably never been a slave or, at least, had become free before the Civil War. The others were Ohio natives William L. Copeland, Samuel H. Holland and John H. Johnson, W. Hines Furbush (who was born in Kentucky and may have purchased his freedom),²¹³ Indiana native George H. W. Stewart, and White's younger brother, Ruben B. White. The White brothers were also two of eight African-American legislators who were known to be of mixed ancestry, the others being Copeland, Richard A. Dawson, Furbush, Ferdinand Havis, J. H. Johnson, Archie Shepperson, Stewart, and John Willis Williams. James T. White joined fifteen other black legislators who were not Arkansas natives; most had moved (or as slaves had been moved) to the state from southern states such as Kentucky, Tennessee, and Mississippi. He was also the wealthiest black legislator. He reported \$9,500 in taxable

²¹³ For a detailed examination of Furbush's life, see Blake Wintory, "William Hines Furbush: African-American Carpetbagger, Republican, Fusionist, and Democrat," *Arkansas Historical Quarterly* 63 (Summer 2004): 107-166.

property on the 1870 Census; the equivalent amount today would be about \$161,000.²¹⁴

Six other legislators reported owning at least five hundred dollars' worth of property on either the 1870 Census or county tax records: Charles F. Brown, W. Hines Furbush, Toney Grissom, Havis, and Dawson.²¹⁵

Johnson, in contrast to the other reelected incumbent, White, had probably been a slave like twelve of his colleagues in the House—C. F. Brown, Cornelius “Neal” Brown, Grissom, Havis, Monroe Hawkins, William A. Marshall, William A. Murphy, Henry H. Robinson, John C. Rollins, Shepperson, and Williams—along with Dawson in the Senate. Adam Johnson reported \$380 in taxable property on the 1870 Census, equivalent to \$6,440 today. He identified himself as black, as did five other legislators: C. F. Brown, Neal Brown, Hawkins, Holland, Robinson and Rollins.²¹⁶

Besides Adam Johnson, seven black lawmakers in 1873 were farmers: C. F. Brown, Grissom, Hawkins, Marshall, Murphy, Robinson, and Rollins.²¹⁷ Brown, a thirty-three-year-old Mississippi native, represented St. Francis County. He had been in the state since 1865. Grissom, an Arkansas native representing Phillips, was thirty-two and owner of \$3,800 in taxable property in 1870. Hawkins, forty, represented Lafayette County and had served in the House in 1868-69. He was born in North Carolina but had lived in the state for most of his life. Marshall, thirty, was born in South Carolina but like Hawkins had come to Arkansas as a boy. He reported \$150 in taxable property in 1868.

²¹⁴ Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3. The current dollar equivalent was determined by using the calculator at www.measuringworth.com.

²¹⁵ *Ibid.*

²¹⁶ *Ibid.* According to Wintory, two legislators—William A. Marshall and William A. Murphy—have been identified as either black or of mixed ancestry.

²¹⁷ *Ibid.*

The conservative *Arkansas Gazette* described Marshall as a “dark mulatto.” At sixty-two, Murphy was the oldest black legislator in 1873. He had served in the constitutional convention of 1868 and had lived in the state for twenty-six years. He reported four hundred dollars in taxable property in 1870. Like C. F. Brown, Murphy was also a preacher, and the *Gazette* described him as having “good lungs, but seldom speaks.” Robinson, a twenty-six-year-old Arkansas native, represented Monroe County. According to the *Gazette*, he displayed a “rather pleasant countenance” and an “honest face.” Finally, the thirty-eight-year-old Williams was one of the four representatives from Phillips. He was born in Missouri and had lived in Arkansas for ten years.²¹⁸

Three black lawmakers identified themselves as lawyers: Copeland, Dawson, and J. H. Johnson. The *Gazette* described Copeland, a twenty-six-year-old Crittenden County resident, as a “bright mulatto” who “is rather intelligent, and can make a good speech.” He had lived in the state for three years. The *Gazette* called Dawson, twenty-five, a “bright, copper-colored man, low of stature, a good talker.” A Virginia native, he lived in Pine Bluff.²¹⁹ Dawson would tell the *Gazette* that in 1870 he had been the first black graduate of the law institute at the University of Chicago.²²⁰ J. H. Johnson, thirty-three, represented Woodruff County after living in the state for sixteen years. He reported no taxable property in 1870. According to the *Gazette*, Johnson was “a bright mulatto and a man of some ability. He may be regarded among the leading colored members.”²²¹

²¹⁸ *Arkansas Gazette*, February 1, 1873; Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

²¹⁹ *Ibid.*

²²⁰ *Arkansas Gazette*, February 2, 1873.

²²¹ *Arkansas Gazette*, February 1, 1873; Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

Three legislators were teachers: Holland in the Senate and Shepperson and Stewart in the House. Holland, thirty-two and from Drew County, reported three hundred dollars of taxable property in 1870. The *Gazette* wrote that Holland was “a fine specimen of the African, being as black as that color can get.” Holland had taught school in Little Rock but moved to Chicot County and became involved in politics. Shepperson, at twenty-three the youngest black lawmaker, represented Hempstead County. He was a “bright mulatto and loves to talk,” according to the *Gazette*. “His countenance is not very pleasant,” continued the *Gazette*, “and his ability is not first-class, though he can make a speech—in fact was there ever a colored man that couldn’t?” Stewart, a thirty-four-year-old representative from Phillips, had been residing in Arkansas for three years. The *Gazette* described him as “shrewd” and “keen,” predicting that, “he essays to be a leader among his race, and to a certain extent has succeeded. Stewart will be certain during the session to look out for No. 1.”²²²

Furbush and Havis, notable in their communities for their business acumen, have both been subjects of biographical studies. Furbush, thirty-four, had lived in Kentucky, Ohio and Liberia. He earned his living as a photographer and a barber, and by 1870 he was living in Phillips County. He reported \$2,500 in taxable property in 1870.²²³ Havis, just twenty-six in 1873, was beginning a political and business career that would span five decades. Like Furbush, Havis would become known for creating fusion agreements with white politicians in order to preserve his power. In 1873, Havis was a barber in Pine Bluff; he reported \$1,150 in taxable property in 1870. While serving in the legislature he

²²² *Ibid.*

²²³ Wintory, “William Hines Furbush: African-American Carpetbagger, Republican, Fusionist, and Democrat,” 107-166.

continued to hold two other offices: Pine Bluff alderman and Jefferson County assessor. The *Gazette* was certainly off the mark when it described Havis during the session as “a man of ordinary ability. His constituents have no special reason to feel proud of him.”²²⁴ Havis would go on to serve as circuit clerk of Jefferson County from 1882 to 1892 under fusion deals with Democrats. He became the “dominant boss” of Republican politics in Jefferson from 1886 to 1906, serving twenty years as the party’s county chairman.²²⁵

As in 1868 and 1871, black legislators generally stood together on issues that they understood to be of immediate concern to the state’s African Americans. For instance, they sought stronger civil rights laws for both Arkansas and the nation, and they continued their strong support of public education by backing the creation of a state-run teachers’ college for blacks.

The state’s civil rights act of 1868 outlawed discrimination against persons desiring first-class passage on steamboats, streetcars, railroads, stagecoaches or other carriers; and in inn or hotel accommodations and places of public amusements. Arkansas’s black leaders appeared to be unsatisfied with the enforcement of the law. Senator James Mason had made an attempt to amend the act in 1871, and the topic of civil rights quickly came to the General Assembly floor in 1873. Perhaps their frustrations with the bill were encapsulated by the remarks of “Observer” in a letter to the *Little Rock Republican* in January 1873: “The evils sought to be remedied by a wholesome civil rights law, stalk abroad, all around us, and cry aloud in our streets every

²²⁴ *Arkansas Gazette*, February 1, 1873; Wintory, “African-American Legislators in the Arkansas General Assembly, 1868-1893,” Table 3.

²²⁴ *Ibid.*

²²⁵ For a detailed look at Havis’ life, see Leslie, “Ferd Havis: Jefferson County’s Black Republican Leader,” 240-251.

day. The *Gazette* need not go any further than the saloon nearest its own printing house, to note the invidious distinctions made between men, not of different grades, but exclusively on the ground of color ...”²²⁶

On January 9, J. H. Johnson introduced an “Act to give free access to all places licensed by state, county and municipal authorities, to all persons, regardless of race, color, or previous condition.”²²⁷ A day earlier, Dawson gave notice in the Senate that he was going to introduce a bill regulating the civil rights of certain persons in the state of Arkansas.²²⁸ Johnson’s bill was read twice in the House on January 11 and 150 copies were ordered printed. It was referred to the House Judiciary Committee.²²⁹

On January 20, Dawson introduced “An act to protect all persons in their civil rights, and for other purposes.”²³⁰ The response from the *Gazette* suggests the Dawson bill provided broader access to commercial establishments than the 1868 act: “It is nonsense to talk about any class of persons—white or colored—forcing themselves into places where they know their presence will be the occasion of pecuniary loss to parties interested. . . . These prejudices are almost universal, and no law can eradicate them.”²³¹

On February 4, J. G. Frierson, a Democratic senator from Craighead County in northeast Arkansas, wrote a scathing minority report when Dawson’s bill was reported out of the

²²⁶ Little Rock *Republican*, January 27, 1873.

²²⁷ *Journal of the House of Representatives for the State of Arkansas, Session of 1873, Assembled at the Capitol on the City of Little Rock, State of Arkansas, on Monday, the sixth day of January, in the Year of Our Lord, One Thousand Eight Hundred and Seventy-three, being the First Session of the Third Legislature, held under the Constitution of the State of Arkansas, Adopted March 13, 1868* (Arkansas House of Representatives): 50.

²²⁸ *Senate Journal* 1873, 34.

²²⁹ *House Journal* 1873, 101.

²³⁰ *Senate Journal* 1873, 133.

²³¹ *Arkansas Gazette*, January 21, 1873.

Senate Judiciary Committee with the recommendation that it pass. “[T]he colored people of Arkansas have all the rights, priviliges [*sic*] and immunities of American citizens and of citizens of this state conferred upon them,” wrote Frierson.²³² Later in the report, he wrote, “‘The Dutch have taken Holland’ is an old and familiar saying with us, and if we do not desist from such legislation ‘The Africans have taken Arkansas’ will be a popular saying abroad.”²³³ In spite of such opposition, all four black senators supported the measure as it passed that same day, seventeen to four, and moved to the House, where it was debated from February 11-14.

Speeches by African-American representatives displayed the lawmakers’ passion for the bill. Copeland, making a familiar connection between citizenship and military service, said, “colored men stand here endowed with the same rights and priviliges that belong to any other class of men; they proved their allegiance to this country by entering the union army and spilling their blood on battle fields, under the glorious flag—the red, white and blue.”²³⁴ Grissom, the wealthy farmer, noted the disjuncture of class and race, complaining “men like himself might be surrounded with property and money, but they would be denied the priviliges of white men.”²³⁵ Stewart, seeming to challenge the distinction whites drew between civil and social equality, told the Democrats to “put themselves on record, if they were in favor of the rights of colored men.”²³⁶ Williams said he “was in favor of loosening the shackles of the democrats, and wanted them to

²³² *Senate Journal 1873*, 133.

²³³ *Ibid.*, 220.

²³⁴ *Arkansas Gazette*, February 12, 1873.

²³⁵ *Ibid.*

²³⁶ *Ibid.*

give the colored men their rights.”²³⁷ The Ohioan J. H. Johnson, whose own civil rights bill was stuck in committee, said “he was brought up in a white school, went arm in arm to school with white children, and was in the same studies, and never saw any difference.”²³⁸ Yet Johnson and several other black legislators also reiterated that they desired equal rights, but not social equality. Monroe Hawkins, the farmer from Lafayette County, said he “lived in cotton-growing country, and was in favor of this bill. He was opposed to social equality and did not want it.” Henry Robinson, a black farmer from Monroe County, said blacks “wanted their civil rights, not social rights.”²³⁹

In contending for the bill, the African-American delegation made a clear connection between civil rights and ex-Confederate voting rights. They were willing to bear a proposed constitutional amendment that would restore voting rights to all ex-Confederates—if they received support from white Arkansans of a new civil rights bill. William L. Copeland, according to the January 14 edition of the *Gazette*, said he would vote for the resolution proposing the constitution be amended to remove Confederate voting disabilities “and was willing to give the franchise to those who were willing to accord to him and his race full rights.” The resolution, with unanimous black support, passed the General Assembly and Governor Elisha Baxter signed the bill on January 23, calling for a special election on March 3. Voters overwhelmingly adopted the amendment, Arkansas being the last southern state to remove voting barriers for ex-Confederates.²⁴⁰

²³⁷ *Arkansas Gazette*, February 14, 1873.

²³⁸ *Arkansas Gazette*, February 13, 1873.

²³⁹ *Arkansas Gazette*, February 13, 1873.

²⁴⁰ DeBlack, *With Fire and Sword*, 218.

However, even with a solid fifteen votes from black representatives, the Dawson civil rights bill was rejected in the Republican-controlled House by one vote, thirty-eight to thirty-seven, after seven hours of debate on February 14.²⁴¹ The only black member not to vote for the bill was Shepperson, who was absent. Ironically, the *Gazette* had reported earlier in the session, “Archie is extremely anxious for civil rights, and lets no opportunity pass to remind the house of this fact.”²⁴² The *Gazette* welcomed the bill’s failure, “The defeat of this bill by republican votes shows that there are at least some members of the republican party in the house who dare to do right, notwithstanding the threats of the colored representatives. ... The time has passed for special legislation in the interest of either the whites or the blacks.”²⁴³

Johnson, when he voted for the bill, said “there was a day of retribution coming, when the representatives elected by colored voters who oppose this bill will be buried deep in their graves.”²⁴⁴ He did not have to wait long for a remarkable turnabout. The House, on the strength of fifteen black votes and twenty-five from white Republicans, passed Johnson’s bill forty to twenty-seven on February 21.²⁴⁵ The Senate approved it the same day with unanimous black support. James T. White said he “cast his vote with as much pleasure as he ever cast a vote, and after casting it, he would be ready for the constitutional amendment on the 3d of March.”²⁴⁶

Baxter signed the bill into law on February 25 under the title: “An act to protect all persons in their civil rights, in the State of Arkansas, and to furnish means for their

²⁴¹ *House Journal* 1873, 407-08.

²⁴² *Arkansas Gazette*, February 2, 1873.

²⁴³ *Arkansas Gazette*, February 15, 1873.

²⁴⁴ *Ibid.*

²⁴⁵ *House Journal* 1873, 493-95.

²⁴⁶ *Arkansas Gazette*, February 22, 1873.

vidication.” The act, among other things, made it a misdemeanor for school officials not to provide equal accommodations for black schoolchildren. It was more specific than the 1868 law forbidding discrimination in “places of public amusement,” outlawing racial discrimination in licensed saloons, groceries, dram-shops or any other place where liquor was offered by the drink.²⁴⁷ In late April, Dawson tested the law when he, Furbush, and two other black men entered a downtown Little Rock saloon and requested drinks. The bartender, W. C. Baugh, refused under the auspice of house rules, and Dawson had him arrested and taken to court. The jury, composed of three white men and three black men, found Baugh had violated the act and fined him twenty-five dollars.²⁴⁸

Black lawmakers also showed their support for the federal civil rights legislation being pressed by Massachusetts Senator Charles Sumner. On January 20, White introduced a memorial in the Senate entitled “To the Congress of the United States, for the enactment of a civil rights law.”²⁴⁹ The memorial read in part, “A very large portion of the citizens of our common country are, as the result of social prejudice, the outgrowth of maudlin sentimentality, denied the privileges, advantages and accommodations that are afforded by hotels, inns, taverns, theaters, steamboats, railroad cars, and other places of public amusement . . .”²⁵⁰ All three black senators present voted to adopt the memorial as it passed the upper house sixteen to three that same day.²⁵¹ Three days later, all

²⁴⁷ *Acts of the General Assembly of the State of Arkansas, Passed at the Session held at the Capitol, in the City of Little Rock, which began on Monday, January 6, 1873, and adjourned the 25th day of April, 1873.* (Little Rock: Little Rock Printing and Publishing Company, 1873): 17.

²⁴⁸ *Arkansas Gazette*, April 15, 1873; Wintory, “William Hines Furbush: African-American Carpetbagger, Republican, Fusionist, and Democrat,” 124.

²⁴⁹ *Senate Journal 1873*, 130.

²⁵⁰ *Acts of the General Assembly 1873*, 492.

²⁵¹ *Senate Journal 1873*, 130.

sixteen black representatives joined twenty-seven colleagues in passing the memorial, forty-three to thirty-two.²⁵² The strong stances on civil rights by black legislators inflamed the editors of the *Gazette*. On January 28, under an editorial titled “Masters of the Situation,” the paper hyperbolized, much like Senator Frierson, that the African-American lawmakers had taken over the General Assembly. “If a white republican happens to express a liberal sentiment,” the paper huffed, “he is forthwith reminded by some colored member that he owes his electin to the colored people; that *they* (emphasis in original) made him all he is, and he dre not go contrary to their wishes.” The paper continued, “It is strange that white men—those who represent white constituents—are thus led by the nose by a few ignorant blacks, many of whom can’t tell the difference in the duties of the judiciary committee and that of agriculture.”²⁵³

Arkansas’s civil rights law stayed on the books until 1907. But, as John Graves points out, black Arkansans did not seem interested in pushing for the bill’s enforcement. No appeals regarding either the 1868 or 1873 law were ever made to the Arkansas Supreme Court. “Apparently,” he writes, “blacks liked to think they enjoyed the theoretical right of access to all public accommodations, but not many were anxious to undergo the emotional trauma of testing the statutes or risk the expense of unsuccessful litigation.”²⁵⁴

But Charles Nordhoff, a journalist for the *New York Herald*, who visited Arkansas in 1875, seemed to think the law had some teeth. He claimed the civil rights law passed by the legislature in 1873 was stronger than federal civil rights legislation: “I noticed that

²⁵² *House Journal* 1873, 215.

²⁵³ *Arkansas Gazette*, January 28, 1873.

²⁵⁴ Graves, *Town and Country*, 31.

some drinking-saloons had two bars, one for each color; but I also saw in several cases black and white men drinking together.”²⁵⁵ Nordhoff also observed that in Little Rock he saw “negro policemen as frequently as white, and in the State-house and elsewhere in government offices I saw them employed.”²⁵⁶

That black legislators were nevertheless divided over how the pursuit of “social equality” in 1873 was suggested in Ruben White’s Senate bill that would have repealed the clause in the 1868 public schools law requiring separate schools for black and white children. The proposal was reported unfavorably from the Senate Education Committee, but it still came up for a vote on April 15. Ruben and James T. White voted for the repeal, but Dawson—the author of the failed Senate civil rights bill—and Holland opposed the amendment.²⁵⁷ This may have reflected a more general ambivalence among black southerners toward integrated education. According to Foner, “Most blacks appeared more concerned with educational opportunities for their children and employment of black teachers than with the remote prospect of racially mixed education.”²⁵⁸

The division in the Senate related to separate common schools spilled over into what turned out to be the most significant education bill for African Americans to come out of the session. Senate Bill 127 would amend the 1871 act that called for the location of Arkansas Industrial University to reflect its January 1872 opening in Fayetteville. The bill also included a provision to establish a “normal branch college of said university.” In

²⁵⁵ Charles Nordhoff, *The Cotton States in the Spring and Summer of 1875* (1876; repr. New York: Burt Franklin, 1971): 36.

²⁵⁶ *Ibid.*, 39.

²⁵⁷ *Senate Journal* 1873, 630.

²⁵⁸ Foner, *Reconstruction*, 322.

the Senate, Dawson and Holland approved the bill while the White brothers opposed it. It passed the upper house by a vote of thirteen to nine on March 31.²⁵⁹ In contrast to the Senate, all thirteen black House members present on April 23 approved the bill as it passed thirty-nine to fourteen.²⁶⁰ The Branch Normal College act appropriated twenty-five thousand dollars to the school, which opened two years later in Pine Bluff.²⁶¹ The act, signed by Baxter on April 25, did not cite race in establishing the branch college; rather it referred to the institution as being for the “interests of the state, and especially convenience and well-being of the poorer classes.” But the Branch Normal College legislation was clearly a response to the prospect of integrated higher education in a state in which schools were segregated. When Arkansas Industrial University opened in 1872 with no explicit racial barriers, a black student named James McGahee had enrolled and had been taught separately by the university president. Perhaps the White brothers realized that the bill by establishing a separate institution in Pine Bluff effectively segregated higher education in Arkansas, while the others welcomed the prospect of an institution that would serve blacks less grudgingly. At a board meeting of the Arkansas Industrial University in March 1873, two white missionary teachers of black children in east Arkansas, unhappy with a lack of training for black teachers in the state, requested that trustees ask the legislature to pass a law “creating and locating in eastern Arkansas a

²⁵⁹ *Senate Journal* 1873, 501.

²⁶⁰ *House Journal*, April 24, 1873. The page of the handwritten journal examined for this thesis is not numbered; the journal stops numbering pages after 620.

²⁶¹ *Acts of Arkansas* 1873, 231-33.

Negro branch of the university.”²⁶² The college was later renamed Arkansas AM&N University and today is known as the University of Arkansas at Pine Bluff.

The four black senators stood united in the support of the existing public education establishment, defending the office of circuit superintendents, created in 1868 and appointed by the governor, and seen by many reform-minded Democrats and Republicans as prime examples of wasteful bureaucracy and centralization of state control over local schools. On April 19, the White brothers, Dawson, and Holland helped block a Senate bill to abolish the office. The proposal was defeated twelve to eleven.²⁶³ They all opposed the bill again when it came up for reconsideration on April 23, but the Senate passed the bill fifteen to seven.²⁶⁴ The bill never became law.

As in previous sessions, Arkansas’s black lawmakers generally agreed on an expansion of civil rights and provision of greater educational opportunities for the state’s black population. But in 1873, like 1871, they were divided on other topics, including when it came to their party’s interest in subsidizing railroad corporations. The issue proved to be the final nail in the Republicans’ coffin. State aid to railroads was a key element in the platform of “Regular” or “Minstrel” Republicans, the Powell Clayton wing of the party. Furbush alluded to the Clayton faction on the House floor early in the session: “It is well-known there is a ring in and around Little Rock that are endeavoring to control this body. He came here to destroy that ring.”²⁶⁵ On April 2, a bill backed by Claytonites was introduced in the House that required the state to accept company stock

²⁶² Thomas Rothrock, “James Carter Corbin and Negro Education in the University of Arkansas,” *Arkansas Historical Quarterly* 30 (Winter 1971): 281-82.

²⁶³ *Ibid.*, 670.

²⁶⁴ *Ibid.*, 712.

²⁶⁵ *Arkansas Gazette*, January 18, 1873.

in payment for the bonds the state had issued railroads and to impose a tax of three mills to pay off the interest and principal of the bonds. The bill, as Thomas DeBlack writes, would in effect transfer the railroad companies' debts to the state.²⁶⁶ Eight black representatives—Neal Brown, Grissom, Hawkins, J. H. Johnson, Marshall, Rollins, Robinson, and Shepperson—opposed a motion to table the bill. But five black lawmakers—C. F. Brown, Copeland, Furbush, Stewart, and Williams joined thirty-five white colleagues to pass the motion, forty to thirty-seven.²⁶⁷ The next day, however, C. F. Brown, Copeland, and Furbush switched to supporting the bill as it passed, forty-three to thirty-five.²⁶⁸ Stewart said he voted against the bill because “it could prove advantageous but to a few. ... He was ready to bow his head in shame when he saw the republicans ready to put this bill through, after all their pledges of reform.”²⁶⁹ The *Gazette* became apoplectic. Under an article titled, “The Infamy Consummated,” the paper reported the “railroad thieves and bond grabbers succeeded in purchasing sufficient members of the house to pass the robbery bill.” But it complimented the four Republicans who voted against the measure, including Stewart and Williams.²⁷⁰

The White brothers opposed the bill when it came to a vote in the Senate on April 9. But Dawson and Holland voted with the narrow majority, and it passed, fourteen to twelve.²⁷¹ A Senate minority report written by two Democrats accused supporters of the bill of being members who “have sold themselves ... for worthless railroad bonds and a

²⁶⁶ DeBlack, *With Fire and Sword*, 218.

²⁶⁷ *House Journal* 1873, April 2, 1873.

²⁶⁸ *House Journal* 1873, April 3, 1873.

²⁶⁹ *Arkansas Gazette*, April 4, 1873.

²⁷⁰ *Ibid.*

²⁷¹ *Senate Journal* 1873, 574-79.

few scattering greenbacks.”²⁷² Despite its passage, the bill remained in the Senate until April 24—the day before the end of the session—when it was recommitted to the Senate Finance Committee. Dawson continued to support the measure, but Holland had changed his position.²⁷³ The political theater continued the next day, when hours before adjourning the House attempted to vote on the bill again. Nine black legislators—Copeland, Furbush, Grissom, Havis, Marshall, Robinson, Shepperson, Stewart, and Williams—voted with the majority as a motion to call for a vote failed, twenty-eight to forty-seven, effectively killing the bill. The fact that Copeland, Furbush, Grissom, Hawkins, Robinson and Shepperson turned against the Clayton-backed bill seemed to reflect shifting intraparty allegiances. African-American lawmakers who defended Clayton against impeachment charges in 1871 had been replaced by black legislators who helped defeat Clayton’s allies in their railroad-aid proposal.

A contentious plan to create Lee County also exposed fractures within the African-American delegation. On March 1, Furbush introduced a bill to carve out the county of Coolidge from portions of Monroe, Phillips, and St. Francis counties. Attached was a petition with 1,800 names.²⁷⁴ The bill, named House Resolution 226, was referred to the Committee on Counties and County Lines.²⁷⁵ According to the *Gazette*, at some point between the bill’s introduction and debate almost three weeks later, the bill had been stolen and could not be found.²⁷⁶ But on March 19, when Furbush called up the bill, a small but vocal group of black legislators who stood to lose territory in their districts

²⁷² *Senate Journal* 1873, 583-84.

²⁷³ *Senate Journal* 1873, 752.

²⁷⁴ *Arkansas Gazette*, April 30, 1873.

²⁷⁵ *House Journal* 1873, 576.

²⁷⁶ *Arkansas Gazette*, April 30, 1873; Wintory, “William Hines Furbush: African-American Carpetbagger, Republican, Fusionist, and Democrat,” 118-124.

were prepared to fight it. Copeland immediately moved it be rejected, and he presented petitions and letters against the new county, “and knew people did not desire it.” A motion by Marshall to table the bill lost. Furbush then told the House, “there is only one class of citizens opposed to the bill—politicians.” He had “petitions without end of citizens desirous of having the new county—the honest, hard-working citizens.” Then Stewart, from Phillips County, told the House “he wished to enter his solemn protest, as a representative of the majority, against the formation of this new county.” Grissom, also from Phillips, registered his opposition. The *Gazette* reporter recorded the following exchange:

“Mr. FURBUSH. Will you answer me a question?

Mr. GRISSOM. No; I answer nothing.”²⁷⁷

Furbush admitted to the House the next day that he “stood a good chance of getting a position in the new county.”²⁷⁸ On March 21, Furbush accused the *Gazette* of misrepresenting him concerning the Coolidge bill. He said he “introduced the bill in good faith, and the people wanted it.”²⁷⁹ Tensions continued to mount between Furbush and other legislators. On March 26, Furbush called up the bill, and the speaker responded that the bill needed to be engrossed. According to the *Gazette*, Furbush said, “Then, with the consent of the House, I will withdraw the God d—d bill.” A white legislator moved that Furbush be expelled from the House. Furbush replied, “I wish you would expel me. I am tired of the whole God d—d legislature.” The speaker demanded Furbush come to the bar of the House, and Furbush responded: “I will be glad to be expelled, and never

²⁷⁷ *Arkansas Gazette*, March 20, 1873.

²⁷⁸ *Arkansas Gazette*, March 21, 1873.

²⁷⁹ *Arkansas Gazette*, March 22, 1873.

want my name used in connection with this God d—d legislature again.”²⁸⁰ The next day, Furbush rose to apologize to the “respectable members of the House for the unparliamentarily language he used yesterday. ... The foul means to defeat the bill made him boil over.”²⁸¹ Furbush’s behavior led one representative to remark, upon voting for a bill establishing the state’s insane asylum, “Believing my friend is crazy (pointing at Furbush), I vote aye.”²⁸²

Furbush had yet to fully boil over, however. He had another outburst on April 18 during discussion of the general revenue bill. With J. H. Johnson, the black representative from Woodruff County, in the speaker’s chair, Furbush moved that the lengthy bill be read section by section. Johnson declared his motion out of order. According to the *Gazette*, Furbush then raised several points of order, all of which were overruled. Furbush stepped on his desk and said, “Mr. Speaker, I rise to a point of order!” Johnson reacted by ordering the House sergeant-at-arms, who was also black, to remove Furbush from the top of his desk. “I would like to see the sergeant-at-arms remove me,” Furbush said. “The sergeant-at-arms will remove the gentleman from the desk,” Johnson said. Furbush was then pulled down from the desk.²⁸³

On April 8, Furbush introduced a bill to create Lee County, so named for Confederate General Robert E. Lee, who had died in 1870. That afternoon, the bill named House Resolution 330 was read three times in short order and passed by a vote of thirty-seven to eighteen. Seven black representatives joined Furbush in support of his bill: Hawkins, Havis, Adam Johnson, J. H. Johnson, Rollins, Robinson, and Shepperson.

²⁸⁰ *Arkansas Gazette*, March 27, 1873.

²⁸¹ *Arkansas Gazette*, March 28, 1873.

²⁸² *Arkansas Gazette*, March 29, 1873.

²⁸³ *Arkansas Gazette*, April 19, 1873.

Robinson, of Monroe County, was the only black supporter besides Furbush whose home county would be affected by the bill. C. F. Brown, from Mississippi County, and Williams, representing Phillips, opposed it. Significantly, Grissom and Stewart, were absent and did not vote. Furbush's maneuver was so transparent that Speaker of the House Charles Tankersley called it "the Coolidge bill whitewashed over."²⁸⁴ "The champion county maker—Furbush, of Phillips," wrote the *Gazette* editors. "Mr. Furbush is nothing if not persevering."²⁸⁵

On April 14, and in spite of James T. White's vocal opposition and the vote of his brother Ruben to reject it, the bill squeaked by in the Senate, with Dawson voting in support, by a vote of twelve to eleven.²⁸⁶ On April 15, Grissom and Stewart joined C. F. Brown and Williams in opposing the bill after it returned from the upper house with a proposed amendment requiring the governor to wait two years before appointing the county officers. But eleven black representatives helped pass the bill without the amendment.²⁸⁷

On April 24, the Senate attached its own Lee County bill to the House bill, where Dawson and Holland voted with the majority in a seventeen-to-seven vote. Both James and Ruben White continued to disapprove of any Lee County legislation.²⁸⁸ After returning to the House just hours before adjournment, the bill passed, thirty-seven to twenty-seven; Neal Brown joined Grissom, Stewart and Williams in opposing the bill,

²⁸⁴ *House Journal* 1873, April 8, 1873.

²⁸⁵ *Arkansas Gazette*, April 9, 1873.

²⁸⁶ *Senate Journal* 1873, 618-19; *Arkansas Gazette*, April 15, 1873.

²⁸⁷ *House Journal* 1873, April 15, 1873.

²⁸⁸ *Senate Journal* 1873, 730.

but this time twelve representatives approved of it.²⁸⁹ The bill became Act 100 of 1873. Furbush was appointed the county's first sheriff and he served three two-year terms. On April 25, minutes before the House adjournment, Stewart sent up a protest "against the unfair manner in which senate bill in regard to appointing the officers of Lee county was declared passed." The signatures of Stewart, Grissom, Williams, and Neal Brown were among the thirty-four representatives protesting the action.²⁹⁰ Ironically, Stewart was appointed the county assessor in 1873, and he served one term.²⁹¹

While Furbush was battling multiple legislators, two black representatives from the Hempstead/Nevada district other side of the state developed a feud over the proposed formation of another county. Marshall supported a bill to create Howard County out of Hempstead, and Shepperson opposed the proposal. On April 18, the *Gazette* noted the two men recently had "spats" on the House floor over the bill. The paper printed a proposed bill by Shepperson that would naturalize and declare Marshall a citizen of Howard County. The section of the bill pardoned Marshall "for his various crimes and misdemeanors for totally ignoring the interests of Hempstead County."²⁹² Although Shepperson continued to oppose it, the bill passed the legislature and became Act 57 of 1873.

The final days of the session saw strains between other black legislators. During a vote on a bill on April 23, Stewart moved that Robinson was not in his seat when he

²⁸⁹ *House Journal* 1873, April 25, 1873.

²⁹⁰ *Arkansas Gazette*, April 26, 1873.

²⁹¹ Arkansas Secretary of State, *Historical Report of the Secretary of State 2008*: 449-50.

²⁹² *Arkansas Gazette*, April 18, 1873.

made a motion. Robinson said, “That’s none of your business.”²⁹³ The next day, Robinson raised a point of order that Rollins did not vote on a bill because he was asleep. Rollins “denied the charge and said he was wide awake.”²⁹⁴ Finally, at noon on April 25, the House adjourned among yells and screams. According to the *Gazette*, “The mob called for Tankersley, Neal Brown, Kent, Erwin and others and went out the door singing ‘Old Black Joe.’”²⁹⁵

A feeling of goodwill prevailed in the Senate, however. On the final day of the session, Dawson presented the lieutenant governor a “handsome gold-headed cane in appreciation of the impartiality and dignity with which he had presided over the body during the past few months.” Just before the Senate adjourned, Dawson made a parting speech, and “said he could say, with Caesar, ‘*Veni, vedi, vici.*’”²⁹⁶

To the end of the 1873 General Assembly, black legislators had continued to stand together in areas such as civil rights and education. But disagreements in the delegation degenerated into personality conflicts. Black political leaders would find themselves on both sides of the “Brooks-Baxter War” of the following year, the schism in the Republican Party that led to the end of Reconstruction in Arkansas. Many black officeholders supported Joseph Brooks in his legal attempt to have Baxter removed from office, which had started in 1873 after Baxter alienated the pro-Clayton faction of the party. Brooks was popular among freedmen in Arkansas due to his stance as an abolitionist and his service as a chaplain to the Fifty-sixth U.S. Colored Infantry. He had been a staunch supporter of black voting rights at the Constitutional Convention of 1868.

²⁹³ *Arkansas Gazette*, April 24, 1873.

²⁹⁴ *Arkansas Gazette*, April 25, 1873.

²⁹⁵ *Ibid.*

²⁹⁶ *Ibid.*

Brooks, running as a Liberal Republican with Democratic support, had lost the governor's race to Baxter in 1872. But the pro-Clayton forces within the Republican Party turned on Baxter after he had worked behind the scenes to kill the railroad-aid bill in 1873 and appointed Democrats to fill nearly all vacancies in the legislature after the 1872 elections.²⁹⁷ In April 1874, a judge friendly to Regular Republicans declared Brooks the legal governor of Arkansas, siding with Brooks's argument that Baxter had won the office through massive voting frauds and irregularities. Many black Republican officeholders sided with Brooks, showing their loyalty not only to his record on racial issues but also to Clayton, whom they had defended during his impeachment charges in 1871. But Baxter had the support of hundreds of black volunteers in the state militia, including three hundred from Pine Bluff who arrived in Little Rock in late April to support his bid to retake the office by force.²⁹⁸ In response, two hundred black Brooks supporters organized outside of Little Rock.²⁹⁹ The controversy ended in May 1874 when President Grant decided Baxter was the governor and ordered Brooks's forces to disband.

The following month, voters overwhelmingly supported the calling of a new constitutional convention. The convention, held that summer and controlled by Democrats, produced a document that overturned many of the Republican reforms. On October 13, voters approved both the constitution's ratification but also gave Democrats commanding majorities in both the state House and Senate, along with electing Democrat

²⁹⁷ DeBlack, *With Fire and Sword*, 218.

²⁹⁸ *Ibid.*, 221.

²⁹⁹ *Ibid.*

Augustus Garland governor.³⁰⁰ Reconstruction was over in Arkansas. African Americans remained a presence in the Arkansas legislature through the early 1890s, but only generally as members of a nearly powerless Republican minority. The number of black legislators plummeted to just four in May of 1874 for a special one-week session charged with assembling a constitutional convention, and rose into double digits only once for the rest of the century—twelve blacks, riding the wave of fusion agreements amidst the Union Labor movement, were elected in 1890. After the passage of the state’s 1891 election law, which put election machinery solely in Democratic hands and contained literacy requirements that screened out many poor black voters, only five African Americans were elected to the State House in 1892. None would be elected for another eighty years.³⁰¹

³⁰⁰ *Ibid.*, 224.

³⁰¹ Wintory, “Arkansas Legislators in the Arkansas General Assembly, 1868-1893,” 388.

V. CONCLUSION

The black legislators of the three Republican-controlled assemblies had enjoyed notable successes. Arkansas passed two civil rights laws at the behest of African-American lawmakers. As Nordhoff observed, the 1873 law promoted at least some social interracial mingling. Graves, an expert on nineteenth century black-white relations in Arkansas, notes that railroads in the state had dropped segregation arrangements by the 1880s, and segregation was not instituted on the state's streetcar operations until 1903.³⁰²

But the insistence by Arkansas's black legislators on such laws exposed the fragility of the Republican Party's biracial coalition. Where the civil-rights act of 1868 passed easily through the legislature, getting the 1873 law through the General Assembly proved to be a struggle. This greater resistance to the black assertiveness was a trend throughout the South, as noted by Eric Foner in *Reconstruction*. In his words, "More than any other issue, demands by blacks, supported by many carpetbaggers, for the outlawing of racial discrimination exposed and sharpened the Republican party's internal divisions."³⁰³ Michael Fitzgerald also sees a regional pattern: "Especially at first, the whites most drawn to the Republicans were wartime Unionists and draft resisters. Early alliance with these insurgents tied African Americans to a political agenda based on Radical disfranchisement and proscription of ex-Confederates. As these measures became less viable, civil rights itself defined Republican factional divisions, and the instability of the Reconstruction coalition became more apparent."³⁰⁴

³⁰² Graves, *Town and Country*, 31.

³⁰³ Foner, *Reconstruction*, 369.

³⁰⁴ Fitzgerald, *Splendid Failure*, 119.

But if civil-rights legislation became a source of division and was ultimately nullified by Jim Crow, black legislators' efforts in other realms were not entirely in vain. In general, they were united in their support of public education, with the notable exception of the segregation requirements in the 1868 schools law. They approved taxes that supported such a public system and voted to create special schools for the blind and the deaf. Black lawmakers unanimously supported the creation of the state's land-grant university. A majority of black legislators endorsed the establishment of Branch Normal College in 1873, intended to provide for advanced education for the state's black high school graduates. These positions in support of greater educational opportunities helped black lawmakers stake out a role in what many historians conclude to be one of Reconstruction's greatest legacies. As Fitzgerald observes, "Public education disseminated basic literacy through much of the younger generation. ... Seldom does government undertake so successful an intervention; popular education was achieved at bargain prices."³⁰⁵

The hopes of William H. Grey and James T. White to promote black immigration were realized. More blacks migrated to Arkansas than any other state during Reconstruction. The state's black population nearly tripled from the 1870s through 1890, from 122,169 to 309,117, and by 1890 sixteen counties had black majorities.³⁰⁶ In the late 1880s, Henry Turner, an African Methodist Episcopal bishop, said, "Arkansas is destined to be the great Negro state of the country ... this is the state for colored men who wish to live by their merits."³⁰⁷

³⁰⁵ *Ibid.*, 152.

³⁰⁶ DeBlack, *With Fire and Sword*, 209.

³⁰⁷ *Ibid.*, 208-09.

Also notable among black legislators during this period is their courageous stances in matters of law and order, particularly the violence perpetrated by the Ku Klux Klan and other clandestine organizations in 1868. Five years later, when two top Pope County officials were murdered in broad daylight, Richard A. Dawson was the first senator to present a petition to condemn the killings.³⁰⁸

But how did the first generation of African-American legislators compare to their counterparts in the South? Clearly, they were in many cases very different in background from the South Carolina lawmakers studied so intently by Thomas Holt. In *Black Over White*, Holt concludes that social class among these legislators, more than race, influenced their political behavior. In his examination of roll-call votes, he determines that freeborn, well-to-do mulattoes tended to join the Conservatives and poor black ex-slaves typically joined the Radical faction.³⁰⁹ The actions of key leaders among these “bourgeois” lawmakers eventually led to the collapse of the black majority in South Carolina’s legislature between 1867 and 1876.³¹⁰ In Arkansas, by contrast, the ranks of black officeholders were smaller and there was nothing like South Carolina’s sizeable caste of free born mulattoes (though Mason may well have felt at home in Charleston). Accordingly, Arkansas’s black state officeholders were less riven by differences in background and more united in supporting reforms from 1868 through 1873. The lawmakers who occasionally broke off from the party—Richard Samuels in 1868-69, Edward Fulton, Jeff Haskins and John Webb in 1871, and W. Hines Furbush in 1873—were not distinctly different in status or property holding than their colleagues. The

³⁰⁸ *Arkansas Gazette*, February 21, 1873.

³⁰⁹ Holt, *Black Over White*, 162.

³¹⁰ *Ibid.*, 4.

January 1871 vote to postpone articles of impeachment against lieutenant governor James M. Johnson in 1871, for example, suggests this. The average taxable property in 1870 for the three lawmakers who voted against the motion was \$906. Among the seven who voted for the motion, there are only four (Barrow, Mayo, Robinson, and Young) for whom taxable property information in 1870 is available, and their average holding was \$1,152.

If distinctly different from Holt's South Carolinians, the backgrounds and interests of Arkansas's black lawmakers during these years fit nicely into patterns described more generally across the South by Steven Hahn and Eric Foner. African-American legislators serving in the first two sessions were frequently ministers, teachers, and merchants. Foner notes that blacks serving in the first Reconstruction state assemblies in 1868 closely reflected the prominence of free blacks, ministers, and artisans who served as delegates in the constitutional conventions.³¹¹ But starting in 1871 and continuing in 1873, rural voters began sending more black farmers to the statehouse, with many ex-slaves among their ranks. Six of the sixteen African Americans elected in 1872 were farmers. By 1873, the black delegation in Arkansas's General Assembly had grown considerably and was pursuing a civil rights agenda in the face of increasing opposition from white Republicans. Foner and Hahn show how the changing composition of black officeholders during Reconstruction coincided with a more assertive black politics. Hahn writes, "Black laborers called white party leaders to account. They moved to control the county and district party machinery. They rejected white office-seekers and substituted

³¹¹ Foner, *Reconstruction*, 112.

black ones. They nominated all-black electoral slates.”³¹² And in Foner’s words, “[A] new group of leaders, many of them freedmen from the black belt, would soon supersede those who had taken the lead in 1865.”³¹³ Arkansas fits well into the arc of black politics during Reconstruction as traced by Hahn, Foner, Fitzgerald, and others.

William Grey in September 1871, wrote the *Searcy Tribune* with regrets that he could not fulfill an invitation to address a “grand barbecue” planned for that city. Grey submitted a letter conveying his thoughts on the direction of the state under Republican leadership. In his final sentence, he wrote: “[T]he solid Republicans are moving to the front, they propose to take command in person and rally their forces to the support of the administration both state and national, and present an undivided and broken front to the foe, and inscribe on our banners, equality before the law, education, internal improvements and homes for the homeless.”³¹⁴

Grey would turn out to be wrong, of course. Reconstruction came crashing down not three years later as the Republican Party imploded and the Democrats seized power. But as Grey composed his letter in 1871, two general assemblies had come and gone with full black participation in state politics; he could not help but feel optimistic about the future of Arkansas. It was a world turned upside down, and he enjoyed the view.

³¹² Hahn, *A Nation Under Our Feet*, 253.

³¹³ Foner, *Reconstruction*, 113.

³¹⁴ Reprinted in the *Little Rock Republican*, September 5, 1871.

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