

## The Tennessee Constitution of 1834

### Introductory Material

In the period between 1796 and 1834, the population of Tennessee grew at large percentage. In 1800, Tennessee's population was 105,602, and by 1830, the population had grown to 681,904. By 1830, Tennessee could no longer be considered the frontier. Tennessee had an urban population of over 5,000. The Constitution that governed those first Tennesseans, a few thousand rural settlers, was now becoming stressed trying to govern a population reaching nearly 700,000.

There were several problems with the Constitution of 1796 that needed remedy. One of the most important was the question of taxation. All the land in the state was taxed at the same rate. The Constitution of 1796 stated: "All lands liable to taxation in this state, held by deed, grant or entry, shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another." In a similar vein, there was no tax on goods bought or sold in Tennessee. In the Constitution of 1796, white citizens had few opportunities for political expression and office-holding. Under the old Constitution, there was no independent judiciary. The Constitution of 1796 had merely stated that the judicial power of the state shall be vested in such superior and inferior courts of law and equity, as the legislature shall, from time to time, direct and establish." In local government, the General Assembly appointed the justices of the peace, the justices of the peace formed the county court, and the county court appointed the county officers. This situation conflicted greatly with the growing ideals of Jacksonian Democracy.

In November 1833, the Tennessee General Assembly passed an act "for the calling of a convention." On May 19, 1834, sixty delegates assembled in Nashville in a constitutional convention and selected William Carter of Carter County as president of the proceedings.

Among the changes in the new constitution were that state government was divided into three "distinct" departments, the Legislative, Executive, and Judicial (Art. II, Sec. 1). The new constitution provided for a state supreme court with three judges, one from each section of the state. The marked establishment of the judiciary allowed the counties to create a true court system, such as County Chancery Courts and other courts of local jurisdiction. In turn, the creation of local courts led to the election of judges, and the further growth of county government. Concerning the legislative branch, the delegates decided to apportion representation on the basis of "qualified voters," rather than taxable inhabitants, as the first constitution had done. Moreover, the constitution removed property requirements from the list of qualifications for legislators and the governor. Local justices of the peace, county trustees, and county registers were now popularly elected. Predictably, the tax structure of the state was changed. All property was to be taxed according to its value, and the new constitution gave the counties the power to impose taxes for county purposes.

In like manner, the delegates eliminated property holding from suffrage requirements, thereby widening the franchise. But the voting clause got caught up in racial issues when certain delegates argued for disfranchising free black males. After a

debate that lasted for several weeks, the convention supported a proposal to insert the word “white” in the franchise clause, thus narrowing suffrage rights.

Another point of controversy at the convention was the topic of the emancipation of slaves. The convention would have preferred to ignore the subject, but the arrival of some thirty different petitions forced the delegates to deal with the issue. After numerous debates, and one month before adjournment, the convention voted that the General Assembly should “have no power to pass laws for the emancipation of slaves.” Remarkably, the vote was close: thirty-one favored the clause, while twenty-seven opposed it.

A variety of other issues were addressed. On the topic of the permanent location of the state capitol, the legislature was expected to make a final decision by early 1843. Lotteries were prohibited in the new constitution. The procedure for amending the constitution was changed somewhat but remained difficult to alter.

When presented to the voters in March 1835, the new constitution was ratified by a vote of 42,666 in favor to 17,691 against. Only four counties, Davidson, Smith, Williamson and Robertson, showed majorities against ratification. On March 27, Governor William Carroll proclaimed the revised document to be the fundamental law of the state.

#### Works Consulted

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