



# State law, not federal law, freed Tennessee's slaves

Here's a question you might get wrong (I know I would have a few weeks ago):

What law or act freed Tennessee's slaves?

- A) The Emancipation Proclamation
- B) The 13th amendment to the U.S. Constitution
- C) Tennessee law proposed in January 1865 and passed in February 1865

The correct answer is C. An explanation of this process tells us a lot about Tennessee and the Civil War.

Today many students believe the Civil War was fought to end slavery. But that's not really true: The main reason the U.S. Army invaded the South was to stop states from leaving the Union. And although slavery was a major cause of strife between Northern states and Southern states, it is important to remember that slavery was still legal in some northern states (Delaware and Maryland, for example) during the Civil War.

I recently found an editorial in a January 1863 edition of Harper's Weekly magazine that amplifies this point. The editorial, which advocates the continuation of the war, makes little mention of slavery as a reason for the war to be fought. But it talks about how impossible it would be for the United States and Confederate States to co-exist and predicts that further breakups of the union would follow if the Confederacy were allowed to remain:

"The successful secession of the South would be followed by further steps toward disintegration ... The West would, in time, seek to establish a central empire. New England and the Middle States would agree to differ and part company. The Pacific States would follow the fatal example. Thus, in the course of 10 years, we should witness a repetition of the Central American broils in our own country."

When the Union Army invaded Tennessee, no one knew what was going to happen to the slaves who lived in the Volunteer State. After Abraham Lincoln appointed Andrew Johnson to be Tennessee's military governor, Johnson did not take steps to do away with slavery in Tennessee. In the summer of 1862, howev-

er, the Union Army began ordering slaves to help build fortifications around Nashville. (You can still see parts of those fortifications, Fort Negley.) This mass impression of former slaves was one of the first tangible signs that the institution of slavery in Tennessee would not outlast the war.

Lincoln was, of course, personally opposed to slavery, while abolitionists and free blacks such as Frederick Douglass were calling upon him to make the elimination of slavery a major goal of the war from its outset. As the war dragged on throughout 1862, many argued that declaring war on the institution of slavery would help bring an end to the war, as it would undermine law and order behind Confederate lines.

With all this in mind, President Lincoln signed an executive order known as the Emancipation Proclamation in September 1862 (only a few days after the Battle of Antietam). Today this document is believed to be the document that "freed the slaves," but that's not really true.

The Emancipation Proclamation declared that any slaves in states not under Union control as of Jan. 1, 1863, would be free as of that date. In other words, it theoretically freed slaves in states such as Georgia, Alabama and North Carolina — over which the Union government had no control — but did not apply to slaves in places such as Maryland, Delaware and Kentucky. As Secretary of State William Seward explained: "We show our sympathy with slavery by emancipating slaves where we cannot reach them and holding them in bondage where we can set them free."

To further add to the confusion, Lincoln specifically exempted Tennessee from the Emancipation Proclamation at the request of Gov. Johnson and other state leaders. Why? Because Tennessee was not, in the official position of the U.S. government, under Confederate control in the fall of 1862; it was under control of the Union Army and the military governor, Andrew Johnson. Since Tennessee was exempt from the Emancipation Proclamation, Nashville's city council and local courts continued to try to enforce slave laws throughout 1863.



The Emancipation Proclamation was attacked by abolitionists for not going far enough at the time. But it committed the Union to a clear course of doing away with slavery. And from the time of its passage onward, slaves in every part of the South invaded by the Union Army were automatically freed.

Two other points about the Emancipation Proclamation: First of all, it turned foreign political opinion in favor of the Union — largely doing away with any hope that the Confederate States had of getting official recognition from the United Kingdom. It also allowed for the enrollment of freed slaves into the U.S. military.

Throughout 1863 and 1864, no one was really sure what the status of slaves was in Tennessee. Many former slaves enlisted in the Union Army — an estimated 20,000 of them, in fact. With their status unclear, thousands of slaves migrated to so-called “contraband camps” that were mainly located in cities such as Nashville and Knoxville. But some slaves remained right where they were, uncertain where they could go or what they could do.

In the fall of 1864, Gov. Johnson called for a new convention for the purpose of returning state government to civilian control. But he required that everyone take a loyalty oath to the U.S. government to be part of that convention or to vote on the participants on that convention (which is why many Tennesseans did not take part in this election).

The 510 delegates elected to that convention met in early January 1865 (only one month after the Battle of Nashville). Among their proposals was one declaring null and void the action of the legislature on May 6, 1861 (under which Tennessee severed its ties to the Union). Another amendment abolished and prohibited slavery.

I thought that there might have been quite a bit of elaboration in Nashville’s newspapers as the referendum on this slate

of proposals neared. But I didn’t find very much, except for an editorial in the Feb. 22 Nashville Union newspaper that talked about how unlikely it was that armed African Americans could ever be returned to slavery. Here is an excerpt:

“Do you desire to ‘prop up’ the tumbling, falling institution of slavery? Do you really think that it would be possible to resurrect the structure? That it is likely that the 150,000 of the ‘redeemed, regenerated and disenthralled’ will lay down the musket now proudly presented upon the order of their superior in arms and take up the weeding hoe, under the lash of the overseer? Or that they will labor even for kind masters without compensation?”

This slate was overwhelmingly approved by a statewide election on Feb. 22, 1865. Again, only white males who had signed oaths of loyalty to the U.S. government were allowed to vote in this election. Nevertheless, this date (coincidentally, the 133rd anniversary of George Washington’s birth) is the closest thing to an official date for the freeing of slaves in Tennessee. As the Nashville Union predicted:

“This initiates an era in the state which will make the 22nd of February doubly memorable — as the birthday of the immortal Washington and of the FREE STATE OF TENNESSEE. In future years the celebration of the two events will be connected. SLAVERY IS NO MORE — the people have decreed.”

This event also makes Tennessee (technically, at least) the only U.S. state to eliminate slavery by popular vote.

Two days later, Johnson left for Washington, where he was sworn in as Lincoln’s vice president. He would become president when Lincoln was assassinated six weeks later.

Then, on March 4, another election took place in Tennessee, selecting a legislature and making Methodist minister and newspaper editor Parson Brownlow governor.

After the war drew to a close, slavery remained legal in five states (Delaware, Kentucky, Missouri, Maryland and New Jersey). Because of this, and because of concerns that the Emancipation Proclamation was a war-time measure, Congress decided that the U.S. Constitution needed an amendment doing away with slavery once and for all. It was ratified by most Northern states in February 1865 and by Tennessee on April 7, 1865. Ratification was completed in December 1865 — about 10 months after Tennessee had freed its slaves by state law. ☺



## Tennessee History for Kids

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