

Free Black Suffrage and the Pennsylvania Constitutional Convention (1838)

Attempts to gain voting rights for African Americans began long before the Civil War and the passage of the 15th Amendment to the Constitution in 1870. Free black people were able to vote in a few northern states including Pennsylvania until 1838, and some exercised that right, though they were often met with hostility at the polls.

The Pennsylvania Constitution of 1790, like the US Constitution it was modeled on, left the voting rights clause vague and allowed for differing interpretations of who had the right to vote. Some free African Americans and white supporters believed that “every freeman” in the state constitution included free black men, and a small though unknown number of black men did vote in some Pennsylvania elections between 1790 and 1837. Still, in practice, the vast majority of free black men in Pennsylvania were forced by intimidation and threats of violence to stay away from the polls.

In late 1837 and early 1838, when Pennsylvania statesmen were gathered for the Pennsylvania Constitutional Convention, state Democrats lobbied hard for an amendment to the constitution that would ban black men from voting in state elections. Free African American men, especially James Forten Sr., James Forten Jr., and Robert Purvis in Philadelphia, and John Vashon and John Peck in Pittsburgh, fought to retain the right to vote that, at least in theory, existed in the Pennsylvania Constitution. These men wrote and supported the *Appeal of Forty Thousand Citizens* and the *Pittsburgh Memorial*, respectively, to defend the right of free black people to vote based on their US citizenship, the taxes they paid, and the principles of freedom and equality enshrined in the US Constitution.

The delegates at the convention in the end voted to add the amendment denying black suffrage, and it was narrowly approved by a popular vote soon after. The 1837-1838 Pennsylvania Constitutional Convention confirmed the dominance of white supremacy in the state of Pennsylvania and in effect stalled the cause of black suffrage for 32 years.

Document 1: Opinion of Judge John Fox

Fox, John. *Opinion of the Hon. John Fox, President Judge of the Judicial District Composed of the Counties of Bucks and Montgomery: Against the Exercise of Negro Suffrage in Pennsylvania: Also, the Vote of the Members of the Pennsylvania Convention ...* (Harrisburg: Printed by Packer, Barrett & Parke, 1838).

Call number: PAM JK 1929 .P4 69 1838

Source note: Judge John Fox (1787-1849) of Bucks County heard a case of alleged voter fraud at the end of 1837, just as delegates at the Pennsylvania Constitutional Convention were trying to decide whether to allow African Americans to vote in their state. The case was brought by Bucks County Democrats who believed that African Americans had illegally cast the deciding votes that allowed local Whig candidates for county commissioner and auditor to defeat their Democrat opponents. This case is historically important because Fox's opinion was cited by delegates at the Pennsylvania Constitutional Convention where the question of black suffrage was being debated.

Reading questions:

1. When was this opinion submitted (page 3)? Was this before or after the Pennsylvania Constitutional Convention decided the question of black suffrage?
2. Who is the author of this opinion, and who was the intended audience?
3. According to Judge Fox, what is the main question that came out of this local election (page 5)?
4. According to Judge Fox's interpretation of the original charter for the Pennsylvania colony, who counts as a Pennsylvania citizen (page 5)?
5. Why does the author of this source describe in some detail the sections of this 1725 law (pages 6-7)? What purpose does this serve in his argument?
6. The 1780 Act for the Gradual Abolition of Slavery in Pennsylvania stated that no slave born after 1780 would be a slave for life. How does Fox leverage this law *against* the right of African Americans to vote in Pennsylvania (page 8)?
7. On page 10, Fox points out that the Pennsylvania Constitution of 1790 closely resembles the US Constitution. Why does it matter that the majority of representatives who drafted the US Constitution were from slaveholding states?
8. On page 11, Fox compares our democratic republic with the Roman republic. Why does he make this comparison, and in what ways does he claim the two democracies are similar?
9. On page 13, Fox discusses political rights versus civil rights for African Americans. What is his position on these two types of rights?

Document 2: Appeal of Forty Thousand Citizens

Purvis, Robert. *Appeal of Forty Thousand Citizens, Threatened with Disfranchisement, to the People of Pennsylvania*. (Philadelphia: Printed by Merrihew & Gunn, 1838).
Call number: PAM E 185.93 .P4 A7

*See especially pages 1-4 (2 pages). Please note that pages 2-3 are not missing—this is a printing error, and the text from page 1 continues on page 4.

Source note: Robert Purvis (1810-1898) was a prominent Philadelphia area abolitionist of white and Jewish Moroccan heritage. Married to Philadelphia abolitionist Harriet Forten, who was also of mixed racial heritage, Purvis helped found the American Anti-Slavery Society and was active in helping fugitive slaves escape from slaveholding states on the Underground Railroad. Purvis was on a committee that included James Forten, Sr., Forten’s son James (Purvis’s father-in-law and brother-in-law), and a few other African American Philadelphians who joined to write the *Appeal of Forty Thousand Citizens*. They wrote this document in response to the Pennsylvania Constitutional Convention’s proposed amendment that would deny the right of African Americans to vote, and released it before the amendment was approved in a very close popular vote.

Reading questions:

1. Who wrote this document, and what was their purpose for writing it?
2. The author states that the Pennsylvania Constitutional Convention took away the right to vote from African Americans, and that this right is important for all people, but perhaps especially for African Americans. What reason does he give?
3. How does the author link this decision to deny black suffrage with the patriots who fought in the revolutionary war (page 1)? Is this an effective comparison?
4. The author argues that if a government is despotic for some people, it is despotic for all people. For whom do you think this argument would be most convincing at the time it was written?
5. Unlike Fox in Document 1, the author of this document acknowledges that women are denied suffrage under the constitution. What reason does the author give for why women don’t need the right to vote, but African Americans do (pages 1-4)?
6. One of the reasons the author gives for why African Americans should retain their right to vote is that the Colonization Movement is gaining ground, and African Americans should have a say on this subject. What are the author’s objections to the Colonization Movement?
7. The author refers his readers back to the language of the 1790 Pennsylvania Constitution that protects the right to vote for “every freeman” who is over 21, pays taxes, and is a resident of the state. How does this author’s interpretation of that language differ from Judge John Fox, the author of Document 1?

Document 3: The Present State and Condition of the Free People of Color

Pennsylvania Society for Promoting the Abolition of Slavery. *The Present State and Condition of the Free People of Color, of the City of Philadelphia and Adjoining Districts...* (Philadelphia: The Society, 1838).

Call number: PAM F 158.9 .N3 P4 1838

*See especially the address following p. 40: "To the People of Color in the State of Pennsylvania."

Source note: The Pennsylvania Society for Promoting the Abolition of Slavery was founded in 1775 by Quakers and other early abolitionists in Philadelphia, and noted anti-slavery activist Anthony Benezet (1713-1784) was a founding member. Commonly referred to as the Pennsylvania Abolition Society, or PAS, the group's most famous member was Benjamin Franklin, who joined 12 years after the group's founding and co-wrote the society's constitution. The society's original mission was to litigate on behalf of free African Americans who were illegally enslaved, but it later expanded to help ban the international slave trade and amend the Gradual Abolition Act of 1780. In the late 1780s, under the leadership of Benjamin Franklin, PAS worked in conjunction with the Free African Society to try to improve the lives of free African Americans by building schools, helping people find employment, and placing black children as indentured servants, which was a common practice at the time. By the 1830s, PAS was less influential, especially after the 1833 founding of the American Anti-Slavery Society by William Lloyd Garrison and Arthur Tappan. This 1838 document, read at a January 5th, 1838 meeting of the society, was a response to the Pennsylvania Constitutional Convention's amendment to the Pennsylvania Constitution banning free African Americans from voting in the state.

Reading questions:

1. Who wrote this document, and what was their purpose for writing it?
2. Why do you think the authors mention the founding of their organization, more than 60 years earlier?
3. What is the tone of this document? Why do you think the authors employ this tone for this particular subject?
4. On page 4, the authors refer to the Philadelphia race riots of 1834 and 1835 that cost one African American his life and destroyed thousands of dollars' worth of African American-owned property. What purpose do the authors have for mentioning these riots?
5. Why are black Pennsylvanians urged to be as "wise as serpents and harmless as doves"?
6. Despite the Pennsylvania Constitutional Convention's decision to revoke black voting rights, what comfort do the authors suggest black Pennsylvanians can take in the proceedings of the convention (page 5)?
7. Why does PAS claim that African Americans of Pennsylvania should practice temperance? What benefit does this philosophy have for them?

Document 4: Smith Secondary Source

Smith, Eric Ledell. "The End of Black Voting Rights in Pennsylvania: African Americans and the Pennsylvania Constitutional Convention of 1837-1838." *Pennsylvania History: A Journal of Mid-Atlantic Studies*. Vol. 65, No. 3, African Americans in Pennsylvania (Summer 1998), pp. 279-299.

Source note: Eric Ledell Smith was an African American archivist and historian who wrote and edited several books and articles on African American history and performing arts history. This article won a prestigious Pennsylvania history prize in the year it was published.

Historical context: Partisan politics are a key ingredient in what happened at the Pennsylvania Constitutional Convention of 1837-1838 and related events, especially the court case in Bucks County about whether it was legal for black people to vote in Pennsylvania. In the 1830s, the two main political parties were the Whigs and the Democrats. The Whig Party came out of the tradition of the Federalists, but was formed in the 1830s specifically to oppose Andrew Jackson's Democratic Party. Supporters included industrialists and the urban middle class, and advocated for modernization and greater powers of congress over the president. The Democratic Party on the other hand appealed to immigrants and working-class white Americans as well as southern slaveholders, and advocated for an agrarian society and weak central government. In this article, Smith refers to a coalition between Anti-Masons and the Whigs that gained political power in Pennsylvania in the 1830s. The Anti-Masonic Party was formed in the late 1820s to oppose Freemasonry, a secret society mostly comprised of wealthy and powerful men. It soon merged with the Whig party, however, to oppose the policies of the Democratic Party.

Reading questions:

1. Who wrote this article, and who is the intended audience?
2. What have other historians overlooked in their studies of the Pennsylvania Constitutional Convention of 1837-1838 (page 280)?
3. The Pennsylvania Constitution of 1790 did not explicitly forbid African Americans from voting. Why is it that so few African Americans voted in Pennsylvania between 1790 and 1837 (page 281)?
4. What happened in the anti-black riots of 1834 and 1835?
5. How did the economic depression of 1837 affect the decision to revisit voting rights in the Pennsylvania Constitution (page 287)?
6. A Bucks County delegate at the constitutional convention, E.T. McDowell, stoked fears about what could happen if the convention decided to remove the taxation requirement for voting in Pennsylvania. What were those fears, and how did McDowell's words change the views of other delegates (page 288)?
7. How did Judge John Fox's decision in the Bucks County voting case support Democrats at the constitutional convention (page 292)?

8. How are the *Pittsburgh Memorial*, the *Gardner-Hinton Memorial*, and the *Appeal of Forty Thousand Citizens* similar? How do they differ? What role did each play at the constitutional convention (pages 293 and 295)?