Southern Sympathies in Illinois as Expressed through Nelson vs The People

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Throughout the Antebellum Period, Illinois proved itself to be a problematic state when compared to that of its Northern counterparts. Geographically, it was a northern state, but population-wise, it was split between northern and southern migrants. Around the Chicago area, abolitionism had a strong pull as seen in the various "colored" conventions held there, as well as the variety of Whig/Republican newspapers. Yet, from the state capital of Springfield and southward, many people held Democratic viewpoints and showed sympathy for their southern neighbors. As two slave states bordered Illinois, it is easy to understand how these neighbors had an impact on Illinoisan culture and politics. Illinois was not the only northern state to enact Black Laws, which put severe restrictions on blacks and often banned them from settling in certain states. Still, Illinois's laws were among the harshest. While enforcement of these laws was sporadic, most prosecutions came in the southern part of the state. Among the most controversial of Illinois' Black Laws was the Black Exclusion Law of 1853. This law prohibited blacks from coming into the state with the intention of living there. Punishment proved especially harsh in that violators were subject to penalties that amounted to forced labor, essentially slavery. The Illinois Supreme Court case, *Nelson versus The People*, reflects strong southern sympathies in the state. The Nelson case was set in motion by a violation of the Black Exclusion Law of 1853 in Hancock County. An exploration of how the Black Exclusion Act came into being, and was enforced reveals the powerful southern ideas and cultural forces that percolated in Illinois until the Exclusion Law was repealed in 1865.

History of Illinois and the Black Laws

In the early 1700s, the territory that would become known as Illinois was settled by the French who imported slaves into the region. When the British annexed the territory in the 1760s, they decided to keep the tradition of slavery. It was already the custom established by the French, therefore it made sense to keep it alive and use it as an incentive to convince French settlers to accept British rule.[1] By some accounts, the British version of slavery was much more relaxed than that of southern American slavery. Illinois slaves were given time off for holidays, restrictions were laxer on Sundays, and they received better treatment in general. At this point in time, Black Laws were nowhere near as severe as they would later become.[2] In the following decades, however, Illinois saw a dramatic decrease in population. Many of the French settlers did not want to submit to British authority, so they left the area, taking their slaves with them. With land in Illinois opening up as the

[1] Norman Dwight Harris, *The History of Negro Servitude in Illinois, and of the Slavery Agitation in That State, 1719-1864* (Ann Arbor, MI.: University Microfilms, 1968), 4-5.

[2] Elmer Gertz, "The Black Laws of Illinois," *Journal of the Illinois State Historical Society* 56, no. 3 (1963): 457-58.

Image 1& 2: The first image is territory that was under the control of France in the early 1700s. The second image shows how the landscape changed when the land was given to the British as of 1765.

French left, others moved in.[3] The people who jumped on this opportunity were generally slaveholding planters from the Carolinas, Tennessee and Kentucky.[4] Along with slaves, the new settlers also brought their ideas about slave regulations. It was after the turn-of-the-century that their power was fully manifested.

In 1803, Illinois' first legal code was put in place. Under this code, slaves could be brought in under the guise of indentured servants. However, there were age restrictions on how long someone could serve, and all had to be registered with the county clerk. In return, masters had to provide slaves with everything they needed to survive and to not mistreat their servants while punishing them.[5] Keeping with southern sentiments, a section mandated that if the servant refused to work, he/she could be sold south of the Mason-Dixon Line into slavery.[6] With these provisions in place, Illinois' population once again grew. This time however, a good number of slaves were being registered as indentured servants. With ideal social and agricultural conditions, slave owners from the South continued to arrive in significant numbers.[7]

In 1818, there was the push for Illinois to join officially the Union, but this would mean confronting the issue of slavery and indentured servitude. To meet requirements of being a northern state, Illinois had to remove indentured servitude as it had been set up under the legal codes of 1803. According to historian Elmer Gertz, legislators had a plan to remove the codes by giving them a "verbal gloss" to make them look better on paper. Then, once Illinois was admitted as a state, the codes could be put back in place.[8] However, some delegates at the convention were firmly against any kind of servitude, while others sought a compromise. Ultimately, the party of compromise won out. Thus Article VI emerged: all forms of slavery and indentured servitude would be abolished except as a form of punishment.[9] An obvious loophole existed in this statement: as Gertz explains, slave holders were not attempting to hide their agenda in the slightest.[10] When the 1818 State Constitution made its way before the US Congress, it received mixed reviews. Some, such as Representative James

[3] Harris, *History of Negro Servitude*, 4-5.
[4] Jerome B Meites, "The 1847 Illinois Constitutional Convention and Persons of Color," *Journal of the Illinois State Historical Society* 108, no. 3-4 (2015): 273.
[5] Gertz, "The Black Laws of Illinois," 459-500.
[6] Gertz, "The Black Laws of Illinois," 460; and Harris, *History of Negro Servitude*, 7-12.
[7] Harris, *History of Negro Servitude*, 11-12.
[8] Gertz, "Black Laws of Illinois," 460-61.
[9] Gertz, "Black Laws of Illinois," 461.
[10] Gertz, "Black Laws of Illinois," 462.

Tallmadge (Dem-Rep-NY), said that the proposed Illinois Constitution was not firmly set against slavery and needed to be rejected. Others, such as Representative George Poindexter (Dem-Rep-MS), proclaimed the provisions laid out in the constitution well suited to the political, social, and economic climate in Illinois. After some debate, Congress passed the Illinois Constitution by a vote 117 to 34. The Senate passed it as well without debate.[11] With this vote, Illinois became what Gertz calls "a southern-oriented citadel in the North."[12] The passage of the 1818 Constitution shows acceptance of indentured servitude and by extension slavery, despite the Ordinance of 1789 prohibiting slavery in the North.[13] This was a victory for southern ideals that made clear the law sympathized more with southern norms then the abolitionist north. It also set the stage for the comprehensive Illinois Black Laws of 1819.

The 1819 codes established Illinois as having the most severe Black Laws in the North. Territorial laws had been passed all over the North, but this was the first time black regulatory laws were passed over a large area rather than a small locality. The changing codes also coincided with the demographic change taking place in the early 1820s. Fewer slave-owners arrived in Illinois. Newcomers were lower to middle-class farmers from the South who did not own slaves. This population change brought a new trend in legislation in which Illinois, a northern state, began to function like a slave state. Under these laws, the local county clerk issued all black citizens a certificate of freedom. To be certified blacks had to pay a $1000 bond to prove that they had the funds to be more than a mere county charge and hence would not be a burden to taxpayers. This was particularly important because one of the leading arguments for excluding black immigrants was that they would all be poor and would need state support. They would also potentially compete with poor whites for jobs. If a convicted black failed to pay the bond, they would be fined an additional sum and face possible arrest. Under these laws, slave owners were prohibited from bringing their slaves into Illinois and setting them free. Violators would be fined. There was also a section pertaining to blacks living within the state. If a black person was caught without freedom papers, it would be assumed that they were a run-away slave. If the individual could not produce papers, the local sheriff would advertise his/her sale at auction for six weeks. The convicted black would then be sold to the highest bidder for a year of work. After that year, the person would then receive the wages for that year of work. If a master had not come forward to claim the individual, he/she would be given a certificate of conditional freedom, which meant they could still be claimed if someone came forward. Also, if a white citizen hired a black person without freedom papers, they would be subject to fines for every day's worth of work done. There were, however, some sections within these laws that worked to protect the black community, at least to some extent. Any person who lied to procure a black person as a slave or indentured servant would be punished for committing perjury. There were also explicit prohibitions against kidnapping free or indentured blacks.[14]

Most of the laws, however, were meant to control blacks. The South designed its black laws to control slaves and prevent uprisings. In Illinois, these laws served a similar purpose. They aimed at controlling blacks. It was also a means by which to discourage blacks from coming into the state. White settlers viewed blacks as inferior, unacceptable neighbors, and financially untrustworthy people. In no way did they want to support a person they felt unworthy of being a member of their society. This also implies an inherent fear of blacks. From the stories of slave revolts, whites feared what would happen to them if they left the black community uncontrolled. The Black Laws of 1819 were updated in 1848. More sanctions were put in place to punish whites caught helping blacks.

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[11] Gertz, "Black Laws of Illinois," 462-63; and Harris, *History of Negro Servitude*, 25.
[12] Gertz, "Black Laws of Illinois," 463.
[13] Harris, *History of Negro Servitude*, 25-6.
[14] Gertz, "Black Laws of Illinois," 463-64.

Whites could be heavily fined for helping blacks without freedom papers.[15] It is worth mentioning that by 1840, the black population in the census was 4,065, less than one percent of the total population.[16] They posed little threat to the whites living there, yet hatred for African-Americans pushed forward legislation to control blacks and prevent more from entering Illinois. A short time later, at the 1847 Constitutional Convention, came the Black Exclusion Act, otherwise known as Article XIV.

The Black Exclusion Act

Illinois's questionable spending habits, extreme debt, and a general distrust of the state's banks triggered the 1847 Constitutional Convention, called to rewrite the state's constitution. However, the concept of race quickly became an issue. A few at the convention wanted to introduce legislation that promoted equality between the races, such as voting rights and removing all distinction between the races in legislation. It soon became apparent, however, that most of the assembled delegates did not share the opinions of the abolitionist minority. The Senate Judiciary Committee pronounced in its report that "No act of legislation will or can raise the African in this country above the level in which the petitioners find him… he can never aspire to those privileges while there remains one of the Anglo-Saxon race."[17] The legislators simply did not view blacks positively, and in keeping with the mandate to control the black population, on June 25th the Black Exclusion Act came to the floor at the convention. Previously, parts of Illinois had passed territorial exclusion laws restricting blacks from settling in select counties. Now under this new legislation proposed by a former state senator, Benjamin Bond, blacks could not settle anywhere in the state. This applied not only to free blacks, but also any masters wanting to bring their slaves with the intention of freeing them.[18] Once this provision made it into the constitution, overturning the law would be very difficult. In short, a repeal meant that a majority of Illinoisans would have to support its removal in a popular vote. In Illinois's particular political climate, removal was unlikely. As Edward West, a Whig from Adams County, explained: many whites came to Illinois from the South to escape slavery—and African-Americans.[19]

The Convention of 1848 provided the foundation for the law to be enacted. It was not until February 12, 1853, that the legislation was put into law and enforced. During several conventions held between 1848 and 1853, Article XIV was introduced, but it failed to garner sufficient support. It was not until Jacksonian Democrat John "Black Jack" Logan rallied enough support that the proposals finally became law in 1853.[20] Voted on separately from the constitution, it was passed with 87 in favor and 55 against. Those in favor of the bill were largely Democrats from the southern part of the state. Those against were largely Whigs from the Northeast. The Exclusion Law passed easily when 87 of Illinois's counties voted in favor. The only counties that voted against the bill were in the Chicago area. On the opposite end of the state, 13 counties in Little Egypt voted with over a 90 percent approval rate. Saline County heartily approved with a 98 percent vote in favor of the law.[21] This vote clearly demonstrates how the majority of the state, especially the parts in close proximity to slave states and settled by upland southerners, strongly supported this legislation. Southern opinions clearly had an effect.

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[15] Gertz, "Black Laws of Illinois," 464-65.

[16] Meites, "The 1847 Illinois Constitutional Convention," 266.

[17] "Report on the Committee on the Judiciary Relative to Negroes," Senate Report, 15th G.A., 1st Sess., 165-66, March 1, 1847, quoted in Meites, "The 1847 Illinois Constitutional Convention," 270-71.

[18] Meites, "The 1847 Illinois Constitutional Convention," 277.

[19] Meites, "The 1847 Illinois Constitutional Convention," 278-79.

[20] Meites, "The 1847 Illinois Constitutional Convention," 284-85.

[21] Meites, "The 1847 Illinois Constitutional Convention," 282-84.

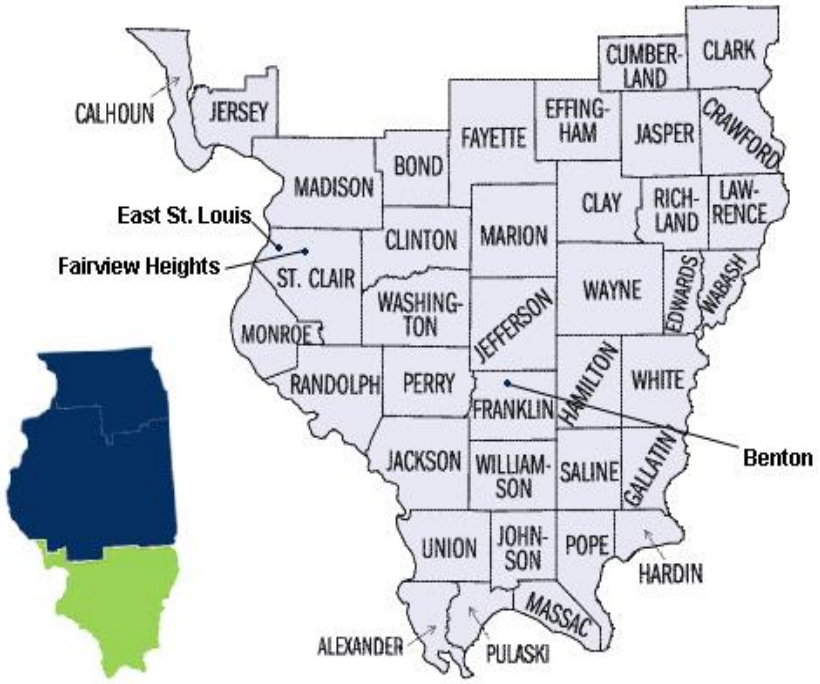

Image 3: The green section is the section of the state known in the 19th century as "Little Egypt".

The Exclusion Law itself was made up of several parts. First and foremost, it established that whites were not permitted to bring blacks within the borders of Illinois. If any white person was caught doing so, they would be fined. If the individual could not pay the fine, they would be jailed for one year. According to this section, it mattered not whether the black person was free. A white person would still be fined for bringing them into Illinois. Race, not social class, appeared the target. This is expressed in Section Three of the law that any "negro or mulatto," no matter free or a slave, would be subject to a fine of 50 dollars if caught in Illinois for more than ten days with the intent to settle. The individual would receive a trial by jury of 12 white men. Upon a guilty verdict, the convicted would have to pay the fine. If they could not, the sheriff would then announce an auction ten days following the notification. At the auction, the highest bidder would pay the criminal's fine, and the convicted then would work off the money the bidder spent. After the fine was paid, if the "negro" had not left the state within ten days, they would again be liable for arrest. However, this time the fine would increase to 100 dollars. If the criminal could not pay the 100-dollar fine, they are again subject to the same manner of punishment as the first offense. If, after the second time, the individual failed to leave the state, the fine would keep increasing by 50 dollars until they left the state or died.[22]

However, there was a section that worked in favor of any accused blacks. Section six allowed blacks to appeal a verdict within five days of the sentence. As a sign of good faith that the accused would not run and would appear in court, their fines were doubled. If found guilty, the "negro or mulatto" was subject not only to the fines associated with the verdict but would also have to pay the fines and costs associated with the lawsuit. In later sections, any white man could claim any "negro or mulatto" who had been caught if he provided sufficient proof that he was the owner. Upon demonstrating ownership, the owner would be subject to pay all fines and court fees amassed. The second to last section of this law proved to be among the most interesting despite its brevity. Section ten stated, "Every person who shall have one-fourth negro blood shall be deemed a mulatto."[23] The issue increasingly seemed less about slaveholding. It had become more about race. Section ten

[22] *Laws of Illinois 1854*, 18 Illinois 390 1853, 57-8.
[23] *Laws of Illinois*, 58-60.

echoed the ideology of racial superiority prevalent in both the South and the North. Even the slightest bit of black "blood" meant the "mulatto" could not reach the heights needed to associate with white society. Blacks must be separated, or, in the best-case scenario, removed altogether. It was on this point that many northerners could sympathize with the South. Numerous northern states also enacted black laws. However, the severity of these regulations was often weaker than that of the South. Only in Illinois did the black laws rival those of the South. Even southern newspapers admitted that there was a certain ruthlessness displayed in Illinois.[24] In the South, blacks were treated as lesser beings, yet they were still a part of everyday life and could exist alongside their white counterparts. That is, as long as they remained respectful of the societal hierarchy.

The exact reason for the passage of this law is up for debate. It may have been intended as a blow against the abolitionist cause. Another possibility was that it was an attempt to boost the economy and provide the state with extra funds. Certainly it reflected deep racism present in the state, yet, at the same time, there was some disapproval of the law.[25] A majority of the opposition came from Chicago and its extremely active black community. The passage of the 1853 legislation brought about a new drive to demand action to remove the black laws.[26] Active disapproval was not limited to Chicago. Newspapers across the state clearly expressed concerns. Most held to the claim that the Act of 1853 was unconstitutional and could not be easily enforced. The *Alton Telegraph* expressed fears the law would allow a kind of slavery to be institutionalized within Illinois. The *Quincy Herald* and Springfield's *State Register* were the only Democratic papers loyal enough to the administration to defend the law.[27] Yet, ardent opposition was limited. As stated earlier, the Exclusion Act won easily a majority of the counties in Illinois. No action was ever taken to undo any of the black laws at this time. In fact, no black laws instituted since the early 1820s were removed until 1865, the week after the Thirteenth Amendment was passed.[28] There was continued pushback against the black laws, yet nothing was done to remove them until after the Civil War. Illinoisans were sympathetic to southern ideas, morals, and standards. While many Illinois citizens probably did not support slavery, they most certainly did not want blacks living in their communities.

Nelson versus the People

Although critics claimed the Black Exclusion Law of 1853 would be difficult to enforce, it did not stop people from trying. Within the first year of its enactment, three arrests were reported. Following the specifications of the law, authorities auctioned off two of the arrested individuals. The last of the three was an escaped slave whose master came to claim him. When the case was brought to court, the local judge declared section eight, which stated that masters were liable to pay for court costs and fines, illegal because it interfered with the master's right to claim their slaves, power given by Congress through the Fugitive Slave Act of 1850.[29]

[24] Victoria L. Harrison, "We Are Here Assembled: Illinois Colored Conventions, 1853-1873," *Journal of the Illinois State Historical Society* 108, no. 3-4 (2015): 327.

[25] Harris, *History of Negro Servitude*, 188.

[26] Harrison, "We Are Here Assembled," 326-29; and Roger D. Bridges, "Antebellum Struggle for Citizenship." *Journal of the Illinois State Historical Society* 108, no. 3-4 (2015): 300.

[27] Harris, *History of Negro Servitude*, 236-37.

[28] Meites, "The 1847 Illinois Constitutional Convention," 275.

[29] Harris, *History of Negro Servitude*, 237.

The next year, authorities made additional arrests. The *Quincy Daily Whig* reported, on July 7, 1854, the arrest of seven black men from the week prior. Three of them were cooks on a steamer passing through Illinois—these cooks were quickly released after paying a minimal fine. The remaining four were brought to the court of Judge Sheldon, who promptly discharged them. The *Daily Whig* editor states, "Men from free States and men from slave States were alike mortified and humbled to know that in Illinois, such things, at this day, could be possible."[30] This statement demonstrates a distaste for the Exclusion Law, and not just on the part of the *Daily Whig*.

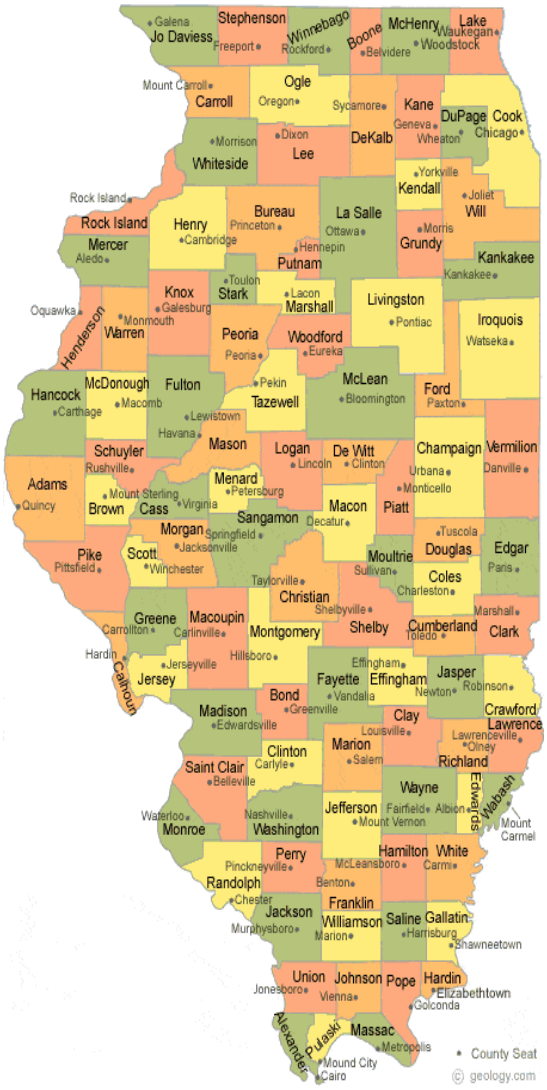

Image 4: Illinois Counties

A few years later, the *Quincy Daily Whig* reported another arrest. On December 2, 1859, an article appeared reprinted from the *Olney Times*, a week earlier. An Irishman with black hair and a dark complexion was arrested in Little Egypt having been mistaken as a "mulatto," trying to settle in the state. Upon questioning, authorities discovered his name was Thomas Leary and he had been in the state for 12 years, living in the Chicago area. Despite the knowledge that he was not, in fact, violating the Act of 1853, his "captors" would not release him until the state paid out the reward promised to citizens who turned in illegal blacks. In keeping with the opposition of some Illinois newspapers to the Exclusion Act, the short article on Leary ended with a passionate plea for forgiveness from the people targeted by the black laws and an expression of sorrow that not more was being done to stop it. The article proclaimed, "we are sorry that our country within her borders [has] one man so steeped in moral degradation as to voluntarily attempt to arrest a man because he happened to be a little dark, and was not blessed with an ordinary degree of intelligence, to carry him into perpetual bondage."[31] The editor clearly viewed with contempt Illinois citizens who turned in blacks in a state barring slavery. However, as stated earlier, actions speak louder than words. Despite protests against the Exclusion Act, little was done to stop it.

Arrests continued to occur after 1859. In 1862, events set in motion the Nelson case challenging the Black Exclusion Law. In December 1862, "a tall slim mulatto, about 55 years old," along with his wife, came into Hancock County from St. Louis, Missouri. They came at the invitation of Orestes Hawley, a Republican, to work on his farm for ten dollars a day along with room and board. The preliminary version of the Emancipation Proclamation had been issued September 22, 1862, and when Nelson heard of this, he thought he had been freed and could leave to work for Hawley. In February 1863, authorities arrested both Hawley and Nelson for violation of

[30] "The Black Law," *The Quincy Daily Whig*, July 7, 1854.
[31] "Excitement In Egypt," *The Quincy Daily Whig*, December 2, 1859.

the Black Exclusion Law of 1853. The two were taken along with five other blacks who had also violated the act. They promptly appeared before Judge George M. Child in Carthage, Illinois. Child, a lifelong Democrat, was involved in an open feud with Republican Governor Richard Yates. With this trial, Child saw an opportunity. The proceedings would be the perfect tool with which to separate Illinois law and order from that of the Republican Illinois native**,** President Abraham Lincoln. At the trial, three witnesses testified that Nelson had violated state law. One was Metgar Couchman, a white resident of Hancock County and a prominent Democrat. The second was Hancock's white County Sheriff, William Hamilton. The last was a black man who had come into the state at the same time as Nelson, named John. Nelson's defense argued that John's testimony was inadmissible because blacks could not testify in court. However, Child overruled the defense and declared John's testimony would stand because the law did not apply to a black man testifying against another black man. On February 6, 1863, a jury of 12 white men found Nelson, Hawley, and the other five blacks guilty. Nelson was fined 50 dollars, as well as court fees.[32]

Of course, Nelson could not afford to pay these fines, so the sheriff posted notification for an auction. In response, Nelson along with the other five appealed to the Hancock circuit court at the end of his five-day limit. On March 6, 1863, a new jury convened, and more witnesses testified, including Orestes Hawley. The prosecution presented the same argument: by coming into the state for more than ten days with the intention of settling down, all six men had violated the Exclusion Law. The defense argued that the act was unconstitutional, immoral, and that it conflicted with the Fugitive Slave Act passed in 1850. It is here where the historical record becomes vague. The prosecution objected, but to what exactly remains unclear. The presiding judge sustained the objection, and the defense's argument was thrown out. Thus, the jury had no choice but to decide upon another guilty verdict. On March 7, the defense requested a change of venue to nearby Adams County. The new trial ran accordingly until the closing statements. Both the prosecution and the defense had prepared closing "instructions" for the jury. These statements featured a summary of each respective side's argument and jury instructions. The prosecution's instructions were read. The defense's instructions were not. The defense tried to pass a motion declaring an error on the trial, but the judge overruled them. Despite all of this, the jury in Adams County found Nelson guilty again.[33] The defense pushed for Nelson's case to go to the Supreme Court arguing that the Exclusion Law was unconstitutional. Finally, the Supreme Court did acknowledge the error committed during the Adams County trial.[34]

Representing Nelson was the law office of Grimshaw and Williams. Jackson Grimshaw was born in Pike County Illinois and moved to Quincy in Adams County as a young adult. Archibald Williams was born in Kentucky before he also came to Quincy to settle in the 1820s. Both men are remembered as among the best lawyers to have practiced in the state of Illinois. Both were also closely linked to Abraham Lincoln.[35] On the prosecuting side was State's Attorney James B. White, born in Greene County, Ohio, in 1828 before coming to Illinois. In 1857, he was recommended for prosecuting attorney for the state, a position he filled until 1865. He was known as a progressive and liberal Democrat with the unique ability to separate his politics from his work.[36] During this time period, the State of Illinois did not have an attorney general position, so White was to fill the role. Completing the cast of characters: Pickney H. Walker served as Illinois' chief justice. Born in

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[32]Adams County Circuit Clerk, records, "Quincy Illinois, File Number 1877" (March 1863.); and Thomas Bahde; and *The Life and Death of Gus Reed: A Story of Race and Justice in Illinois during the Civil War and Reconstruction* (Ohio University Press, 2014) 137-42.

[33] Adams County Circuit Clerk, records, Quincy Illinois.

[34] *Laws of Illinois*, 246.

[35] *The Bench and the Bar of Illinois: Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 880-82.

[36] *History of Christian County, Illinois with Illustrations Descriptive Of Its Scenery and Biographical Sketches of Some of its Prominent Men and Pioneers* (Philadelphia: Brink, McDonough & Co., 1880), 207-8.

Kentucky, Walker moved to McDonough County, Illinois, as a youth. He first served in the Pike County Circuit Court before being moved to the Illinois Supreme Court in April 1858.[37] One other judge provides an interesting sidebar to this case, but he will be discussed later.

The final opinion published in February 1864 by the Illinois Supreme Court agreed with the decisions made by the three previous trials. The court stated that the servitude detailed under the Act of 1853 amounted to a form of punishment, and it was the state's right to define crimes and prescribe punishments. The court also determined that the State of Illinois could prevent blacks from immigrating as part of its police powers.[38] In the state's eyes, poor free blacks and freed slaves would be a burden on the state. Therefore, a danger existed to the livelihoods of white people living in the state. In the court's opinion, the Exclusion Law appropriately protected the well-being of its citizens. The court also took issue with a clause in the law mandating a master must pay all fines associated with the capture and prosecution of his runaway slave. The Supreme Court agreed that masters would be liable for fines accumulated through the capture of their slaves, but paying the remainder of their fine acted as an obstacle between the master and his property. Associated with this, the state of Illinois tried to set up a separate "tribunal" to ascertain whether a black person was a runaway slave. The court also ruled this as running counter to the federal Fugitive Slave Act, because it acted as a block between a master and his property. The owners only had to do as much as the Fugitive Slave Law required for proving ownership. In all, the portions that did not comply with national law were removed. The remainder, including the use of labor as punishment, remained in force.[39]

Nelson's case was not the first to come before the Illinois Supreme Court regarding the issue of slavery. In 1843, *Eells v. The People* came before the Supreme Court. The basic problem behind this case was owners' rights over slaves. In the early 1840s, Richard Eells was an abolitionist who was caught helping a slave. He was convicted of aiding runaway slaves and providing work for them. Eells argued that he did not know the individual in question was a slave, so he was not stealing the owner's property. However, the Supreme Court ruled in favor of the owner. This case contributed to the established precedent that was relied upon in ruling on Nelson's case. As historian Paul Finkelman explains, this ruling established the precedent that slave owners would receive the benefit of the doubt to keep state relations intact. He also emphasizes the important fact that Illinois was proving "its willingness to convict citizens of the state for helping fugitive slaves."[40] Illinois was surrounded by southern states; it is vital to the state government to be on civil terms with its neighbors. Following precedent that citizens will be punished as established by *Eells v The People*, the state could distinguish what was legal and what was not. The state possessed the right to define its penal code, and the court did not have a say in the matter.[41]

This brings us back around to another interesting figure in the case. There was one dissenting vote in *Nelson v. The People*, Justice Beckwith.[42] Corydon Beckwith was a celebrated lawyer, considered to be one of the best in Chicago.[43] The original vote on the Exclusion Law had little support in the Chicagoland area. The one justice who did not approve of the opinion was from this area. Chief Justice Walker was an upland southerner who settled in a border county. The majority of the population held views almost opposite of their northern counterparts. They had the most exposure to a culture in which blacks were of lesser standing. While the newspaper coverage can be

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[37] *The Bench and Bar of Illinois*, 876.

[38] *Nelson (a mulatto) v. The People Of The State Of Illinois* 33 (Illinois 390 1864), 244-45.

[39] *Nelson v The People of Illinois*, 245-46.

[40] Paul Finkelman, "Slavery, the "More Perfect Union," and the Prairie State," *Illinois Historical Journal* 80, no. 4 (1987): 263-64.

[41] *Nelson v The People of Illinois*, 250-52.

[42] *Nelson v The People of Illinois,* 252.

[43] *The Bench and Bar of Illinois*, 645.

deceiving**,** Justice Beckwith's unsupported opinion demonstrated a broader picture of Illinoisans support for the Black Exclusion Law of 1853, and southern way of life.

Conclusion

After the Nelson decision, things remained relatively quiet until the end of the Civil War in 1865. It was following the passage of the Thirteenth Amendment that change began to occur. A week after the amendment's passage, the "infamous Black Laws" were repealed. This included the Black Exclusion Act of 1853. As historian Victoria Harrison explains, in a "glorious new era" of freedom, the Republicans were riding high, pressing a progressive agenda, aided by the fact they held the majority in the Illinois General Assembly.[44] There was a clear effort to take steps to embody the causes for which the North fought. The *Chicago Tribune* describes petitions created and signed all over the state for the removal of the Black Laws. The article goes on to sing the praises of John Logan, ironically the man who had originally introduced the Black Exclusion Law.[45] In 1865, Logan served as a general under the command of General Ulysses S. Grant in the Civil War. In a dramatic role reversal, he had become a radical Republican and would later serve as a senator.[46] The article portrayed Logan as proud of the work undoing what he had created. He was a changed man. In 1907, the *Quincy Daily Journal* published an article entitled the "The Dark Pages in Illinois' History." The piece provided a comprehensive timeline for all the legislation passed regarding the Black Laws. It acknowledged the southern attitudes that thrived downstate. Yet, it stressed how these pieces of legislation later were loathed and how many celebrated when the laws were removed.[47] In the editor's eyes, in hindsight these laws were a stain on the legacy of President Lincoln's home state.

However, not everyone rejoiced. Newspapers loyal to the Democratic agenda had no kind words to spare for the repeal. The *Illinois State Register* published a scathing piece ripping Republicans to shreds, calling their actions "a most glaring piece of effrontery."[48] By removing it, the editor argued, the Republican-General Assembly ignored the will of 175,000 citizens who voted in favor of the legislation. This thought brings up an interesting point: The people who sympathized with the South had not gone anywhere. They were still citizens of Illinois and a change in legislation did not mean a change of opinion. Hostilities toward blacks remained, and Republican newspapers were desperate to project an image that downplayed racism.

As for Nelson, himself, the record becomes foggy. After the Supreme Court ruled against him, his fines would have been reinstated. He still would have been unable to pay his fines and would have been auctioned off. However, when the laws were repealed in 1865, Governor Yates pardoned the men charged.[49] Presumably one was Nelson, but surviving records are unclear. The fate of Nelson may have been lost, but his journey speaks volumes. Illinois was a geographical northern state driven by a southern culture. A good number of middle-class, white planters settled in Illinois, and they brought with them their ideas about how blacks and whites should interact. This tension kept building, ultimately culminating in the Black Exclusion Law of 1853. Those found guilty of violating this law were subjected to punishment that amounted to forced labor: slavery. Nelson quickly found upon his arrest that the Illinois Court system generally did not find favor anyone who threatened to rock the boat, so to speak. There was a consensus that extra care should

[44] Harrison, "We Are Here Assembled," 341.

[45] "Repealing the Black Laws," *Chicago* Tribune, January 15, 1865, in Mark Voss-Hubbard, *Illinois's War: The Civil War in Documents* (Athens: Ohio University Press, 2013), 181.

[46] Meites, "The 1847 Illinois Constitutional Convention," 286.

[47] "The Dark Pages in Illinois' History," *Quincy Daily Journal,* February 12, 1907.

[48] "The "Black Laws" Repealed," *Illinois State* Register (Springfield), February 5, 1865, in Voss-Hubbard, *Illinois War*, 182.

[49] Meites, "The 1847 Illinois Constitutional Convention," 286.

be taken with slave owners to maintain Illinois' reputation with neighboring slave states. The Supreme Court held a similar philosophy. The fact that only one justice dissented from the stated opinion demonstrated the predominately southern attitude of the state. While Illinois might be the Land of Lincoln, it had a darker side, mirroring the divisions that beset the nation.