Moses of South Carolina
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Published by Johns Hopkins University Press


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On January 14, 1868, the members of South Carolina’s Constitutional Convention assembled in Charleston. The delegates consisted of fifty-one whites and seventy-three blacks, making South Carolina’s one of only two Reconstruction-era state conventions (Louisiana’s was the other) in which blacks were in the majority. Given the fact that blacks had constituted over 95 percent of those voting in 1867, they might have comprised an even more overwhelming majority of the convention’s delegates had not nominations been controlled by the state’s white Union League members and white Republican leaders, who thought an all-black convention would lack credence even to most northerners. Accordingly, Republican political bosses assigned a number of delegate slots to northern whites and eagerly recruited sympathetic southern whites whose participation, it was hoped, would help induce their relatives and neighbors to cooperate with congressional Reconstruction. Republicans were particularly anxious to attract members of the antebellum elite, which represented “the wealth, experience and intelligence of the South.” Some Republicans were convinced that without at least some white support, Reconstruction could not hope to succeed.1

Of the white delegates, twenty-three were native South Carolinians. Many had been prewar Unionists or had, in other ways, been at odds with state or Confederate authorities. One of these individuals, A. G. Mackey, an outspoken prewar Unionist, was elected
to chair the convention. A handful of the native whites were, like Moses, former Confederates who had decided to throw in their lot with the new regime. These included interim convention chair T. J. Robertson, a businessman and land speculator who had made a fortune buying up property at foreclosure sales, and Joseph Crews and C. C. Bowen, who had been accused of Unionist sympathies and various crimes during the war. Bowen had been convicted of murdering a Confederate officer and had spent the last months of the war in prison. The remaining whites were carpetbaggers, which included missionaries, Freedman’s Bureau and Union League officials, and former Union army officers such as future governor Daniel Chamberlain.

Sixteen of the black delegates were also from the North; the remaining fifty-seven were native South Carolinians. The black delegates were drawn from the uppermost stratum of antebellum black society. Fourteen had a common school education; five were graduates of normal schools; and ten had graduated from college or a professional school—in an era when most southerners, black or white, had no formal education. Nearly half the black delegates had been free before the war, most were literate, and a number owned property.

Several of the black delegates were individuals of exceptional ability. Francis Cardozo, like Moses, was half-Jewish—one of three sons of a Jewish civil servant, Isaac N. Cardozo (brother of the prominent economist Jacob Cardozo), and a free black mother. Cardozo was raised by his mother as a Presbyterian, and in an extraordinary step in antebellum South Carolina, Cardozo’s father had sent him abroad for an education. Cardozo studied at the University of Glasgow and subsequently trained for the Presbyterian ministry at seminaries in Edinburgh. Upon his return to South Carolina, Cardozo became a leader in Charleston’s long-established mulatto community and a spokesperson for its political interests. He also founded a black teachers college, Avery Normal Institute, in Charleston immediately after the war and would later serve as president of the state’s Union League, a trustee of the state university,
and South Carolina’s secretary of state and state treasurer. Another prominent and extraordinarily able black delegate was Robert B. Elliott, a future member of Congress and famed debater. Elliott had been educated in England and claimed to have attended Eton. He was associate editor of the *South Carolina Leader*, chairman of the state Republican executive committee, and later became a major congressional foe of the Ku Klux Klan. The *Charleston Daily News* was referring to Elliott as well as Cardozo when it observed that “the best men in the convention are the colored members.”

Despite the endorsement of the *Daily News*, most of the state’s white press, led by the Democratic *Charleston Mercury*, lost no time in ridiculing the assemblage as the “ringed streaked-striped-convention,” the “black and tan,” the “Great Unlawful,” or the “Congo Convention.” Black delegates were continually mocked. Motions were said to have been offered by “the munching delegate,” the “scrunching delegate,” and the “bending delegate.” One black delegate, S. A. Swails, was characterized by the *Mercury* as someone who, “when sober, would make a good-looking bandit.” Harry McDaniel was said to be “one of those very common animal-like Negroes.” Francis Cardozo was described as having “neither abilities nor accomplishments that would distinguish him among white men,” yet appearing “to great advantage among the more ignorant people of his own race.” Richard Cain, who was later to be elected to the U.S. House of Representatives, was described as “black, ugly and shabby,” and “because of these exceptional qualities,” was said to be enjoying “considerable influence among the darkies.” Robert DeLarge, according to the *Mercury*, “might have lived and died without having his name in print, except in an advertisement, if it had not been for the great social revolution which like boiling water has thrown scum on the surface.” For a time, white Carolinians hummed a ditty penned by the editors of the *Mercury* to describe the delegates:

Some are black.
Some are blacker.
And some are the color of a chaw of tobacco.
The *Mercury* heaped even more scorn on the white delegates than on their black colleagues. The black delegates, despite their many defects, presented “a decidedly more respectable appearance than the whites,” because they at least “represented the highest type of their race.” The renegade whites, on the other hand “represented the lowest type of theirs.”\(^\text{13}\) The *Mercury* averred that the destinies of South Carolinians were safer in the hands of blacks than they would be “if confided to the more unscrupulous care of the white men in the body.”\(^\text{14}\) Convention president Albert Mackey, a prominent physician, was said to be a drunk and a fraud who was interested only in the per diem he could earn for presiding over the convention. “We now behold him receiving a salary . . . for performing the duties of chairman of the great negro convention.”\(^\text{15}\) The *Mercury* also claimed that some of the white delegates were not actually white. The paper characterized William Collins as “a white man so-called . . . white in complexion and blood, but in his associations and character he is a negro.” Another white delegate, John K. Terry, “was said to be a white man but could easily be mistaken at a short distance for a cross between a grizzly and a hyena.”\(^\text{16}\) As to Moses, the *Mercury* declared that this white delegate to the “Sambo Convention” was a renegade who had supported the Confederacy in every way “except in the fight.”\(^\text{17}\) Moses’s old paper, the *Sumter News*, echoed the *Mercury*, declaring that the convention was filled with “barbarians from the jungles of Dahomey” and a “menagerie of Carolina gorillas.” The *News* reviewed accounts published in other South Carolina papers and reported general agreement in the state that the convention was a sham, and a travesty of self-government.

This body of misrepresentatives of the people known in South Carolina as a curious menagerie, according to the Marion *Star*—a great sham and humbug according to the Edgefield *Advertiser*—the far-famed Ringed-Streaked-and-Striped, according to the indomitable Charleston *Mercury*—the Carolina Gorillas according to the patriotic Wilmington *Journal*, and known by all as a compound mixture of Disorganizers, has still...
[been] holding its disgusting saturnalia in the city of the heroic RUTLEDGE—the chivalrous PINCKNEY and the gifted LAURENS.¹⁸

At one point, E. W. M. Mackey, a son of the convention’s president, became so incensed by the Mercury’s attacks on his father that he physically assaulted the newspaper’s reporter in the corridor outside the convention hall.¹⁹ Mackey had to be restrained by other delegates. Subsequently, the convention adopted a resolution condemning the Mercury as a scurrilous and libelous sheet and banning its editors and reporters from the convention hall. The resolution was adopted almost unanimously with only Moses, a former newspaper editor himself, dissenting.

Libelous accounts in the Mercury and other conservative newspapers were more than just annoyances. Their steady drumbeat ridiculing the convention and, later, the state government, was soon echoed by northern Democratic newspapers whose reports did much to convince northern readers that blacks were incapable of self-government. Indeed, sensational stories in the national media written by prominent northern journalists like James Pike made South Carolina such a symbol of governmental ineptitude that most Americans viewed the Palmetto state as a cesspool of civic depravity.²⁰ The Democratic press attacked all the Reconstruction-era southern governments.²¹ South Carolina, however, was a particular target for hostile reporters because a substantial majority of its voters were black; most of its convention delegates were black; and later, its legislature and executive agencies boasted a larger and more influential contingent of black politicians and officials than any other southern government at the time. The presence of so many black faces in positions that had until recently been reserved for whites provided journalists with a splendid opportunity to vent whatever contempt for blacks they might have felt while, at the same time, appealing to their readers’ racist preconceptions.

Pike described a South Carolina legislature at whose desks “sit colored men whose types it would be hard to find outside of the
Congo.” Such savages could hardly be expected to understand the niceties of self-government as practiced by the “orators and statesmen” of South Carolina’s past. These “dregs of the population habilitated in the robes of their intelligent predecessors” and were capable only of “gush and babble” and a variety of depraved and corrupt practices. “Sambo takes naturally to stealing, for he is used to it,” Pike assured his northern readers as he described the many forms of petty thievery in which black politicians allegedly engaged. After a decade of news stories in which blacks were matter-of-factly described as “thick-lipped, wooly-headed, small-brained” brutes whose only political skill was theft of public funds, northern whites could hardly object to southerners’ efforts to extrude blacks from the political process. Even President Grant was eventually moved to declare that the Fifteenth Amendment, granting voting rights to freedmen, had been a mistake. “It had done the Negro no good, and had been a hindrance to the South, and by no means a political advantage to the North.”

As the Charleston Mercury and other conservative newspapers fulminated against it, the convention, nevertheless, sought to address many of the pressing issues facing the state and the South as a whole. These included voting rights, black hopes for social equality, problems of taxation and public finance, and above all, demands for land redistribution. Watching from the sidelines were the tens of thousands of fearful whites who had boycotted the recent referendum. These white Carolinians feared that blacks would use the Constitutional Convention to impose continuing political disabilities on former Confederates and to mandate “race mixing” in public institutions. White planters were concerned that blacks would seek to craft constitutional provisions that would result in the confiscation or substantial redistribution of private lands. Whites had reason to be concerned. Throughout the South, black political orators were telling the freedmen that they were entitled to lands belonging to rich whites. At one Alabama rally, an orator asked, “Didn’t you clear the white folks’ land?” “Yes,” voices from the crowd answered, “and we are entitled to it.” In a number
of states, armed groups of freedmen sought to take possession of land by force. In South Carolina itself, black delegates to an 1867 Republican convention demanded the abolition of large estates and heavy taxation of uncultivated land to force its division and sale to the “poorer classes.” And in the Sea Islands, blacks had organized and armed themselves to resist efforts to remove them from land they had occupied since General Sherman had set it aside for their use during the war.

In the end, most of the fears of South Carolina’s white citizens proved groundless. Some convention delegates, to be sure, hoped to develop a confiscatory land policy, but most did not, in part because they knew that such a step would not be tolerated in the North. Some delegates sought to prolong the political disabilities that Congress had imposed upon former Confederates. Most delegates, however, were conciliatory in their attitudes. They favored equal rights for blacks and whites, but few thought it would be wise to devise policies that might be seen as forcing undue mixing of the races.

While the conservative press presented a picture of a monolithic “Congo Convention,” delegates actually came to the convention from a variety of backgrounds and with various motives. Delegates included northern and southern whites as well as northern and southern blacks. Some of the southern blacks were impoverished freedmen, but a large and racially self-conscious group were members of the relatively prosperous Charleston mulatto community who had been born free. Each group had its own perspectives and interests. Most of the northern whites and some of the southern whites had been drawn into South Carolina politics by the unprecedented political and business opportunities that the state’s postwar condition seemed to offer. The collapse of the Confederacy had undermined South Carolina’s political and economic leadership. Entrepreneurs and speculators saw in this an opportunity to seize and use the machinery of the state’s government to promote their pecuniary interests. This group included native-born whites like Robertson and carpetbaggers like future governor Daniel Chamberlain. A Massachusetts native who served in South Carolina during the
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war, Chamberlain remained in the state in hopes of making his fortune as a planter. These delegates generally supported constitutional provisions that would promote the breakup of large estates. Their goal, however, was not the redistribution of land to the freedmen. Rather they hoped millions of acres would be sold at public auction where white speculators would easily outbid poor blacks. Other whites, like Moses and Robert Scott (a former union army officer and Freedmen’s Bureau official from Ohio who would become the first governor under the new constitution), were more interested in political careers that had been made possible by the enfeeblement of South Carolina’s traditional ruling class. This mix of motives was common among white Republicans throughout the South.  

The chief concerns for many black delegates were guarantees of political and social equality, and opportunities to improve their condition through access to education and land ownership. William Nash and Robert Elliott often spoke for this group. Many mulatto delegates, however—including some of the most active members of the convention such as Robert DeLarge, Alonzo Ransier, Henry Hayne, William McKinlay, Stephen Swails, and William Whipper—were themselves owners of land and other property. They were opposed to demands from northerners and freedmen for the redistribution of private lands. DeLarge and the others were prominent members of the Brown Fellowship Society, a Charleston mulatto fraternal organization founded in 1790 that barred blacks from membership.  

DeLarge, Rainey, and Ransier were also important officials in the state’s Republican party and were active in the ongoing effort to build a strong Republican organization in South Carolina. Though not a formal member of the Brown Fellowship Society, Richard Cain had for several years been associated with this group. As the freeborn son of an African father and Cherokee mother, Cain was difficult to classify in South Carolina’s racial terms. He was, however, a substantial land owner and had considerable commonality of interest with the Charleston group.  

As for political rights, not all South Carolinians with dark skins espoused the principle of one man, one vote. Hayne and McKinlay,
for example, were dubious about universal suffrage if this meant that uneducated and propertyless blacks, or for that matter whites, would have the right to vote. Similar divisions manifested themselves over taxation and economic development. Most black and northern white delegates supported the idea of expanding the state’s revenue base to provide funding for education, social services, and industrial development. Native-born whites and Charleston mulattoes, however, were more concerned about the effects that state support for such programs might have on their own taxes.

These divisions, coupled with personal, regional, and even sectarian differences, presaged the factional conflicts within the Republican party that would eventually help undermine Republican rule in South Carolina and throughout the South. In his revolutionary manifesto *What Is to Be Done?* Lenin famously explained that a revolutionary party that tolerated internal dissension was almost certain to fail. Revolutionaries, said Lenin, could not permit factional strife because “we are marching in a compact group along a precipitous and difficult path, firmly holding each other by the hand. We are surrounded on all sides by enemies, and are under their almost constant fire.” Or as another well-known revolutionary theorist observed to his comrades, “We must all hang together, or assuredly we shall all hang separately.” In some respects, Reconstruction-era Republicans, seeking to bring about a social revolution in the face of southern white hostility and northern vacillation, were marching along an even more dangerous path than Lenin’s Bolsheviks. And, indeed, unrestrained factional struggle would eventually carry them over the precipice. Over the course of two months, the members of the convention debated a number of topics. The most important were political rights, education and social equality, public finance, and the issue of land. In the end, they drafted a document that, as South Carolina’s leading historians put it, “was as good as any other constitution the state has ever had.” No constitution drafted by the Congo Convention, could placate the state’s angry whites. Nor, in the end, could the parchment guarantees of a constitution safeguard the hard-won liberties of South Carolina’s black citizens.
Political Rights

In antebellum South Carolina the right to vote and the privilege of holding political office had been restricted to white males, as was true in most other states throughout the Union. Blacks were not citizens and had no political rights. But even possession of white skin had been no guarantee of political rights in South Carolina. The planter aristocracy that had ruled the state had been no more willing to share power with poor whites than with blacks. The franchise had been limited; legislative apportionment favored the planter class; and property requirements restricted public office to the privileged few.

The idea that freed blacks would possess the right to vote was not a given at the end of the Civil War. Most northerners doubted whether recently freed black slaves had sufficient intelligence or education to merit the franchise. Even many abolitionists opposed black voting. In his famous periodical the *Liberator*, William Lloyd Garrison declared in 1864, “When was it ever known that liberation from bondage was accompanied by a recognition of political equality? Chattels personal may be instantly translated from the auction-block into freemen; but when were they ever taken at the same time to the ballot box, and invested with all political rights and immunities?”35 In 1868 most northerners remained unconvinced that black suffrage was a good idea. The Republican party, however, was convinced that with black votes it might hope to establish lasting rule in the southern states. Coupled with the Fourteenth and Fifteenth Amendments, the new southern state constitutions were expected to ensure that blacks would have unfettered access to the ballot box.

As in the case of all the other newly enacted southern constitutions, the South Carolina constitution provided for universal manhood suffrage. For the first time, black and poor white Carolinians would have the right to vote in all state and local races. The convention’s committee on franchise and elections initially proposed that every male citizen, “without distinction of race, color or former
condition,” who was a resident of the state at the time the constitution was adopted or, subsequently, a resident of the state for one year and of his county for sixty days, should be entitled to vote. The initial proposal disqualified anyone who, after 1875, reached the age of twenty-one without being able to read or write. The committee’s presumption was that this provision would force illiterate South Carolinians to attend school. A number of delegates, including even several leaders of the Brown Fellowship Society, supported the idea of a literacy test. William McKinlay said, “In order to have wise men at the head of our government, it is necessary that the people should be educated and have a full sense of the importance of the ballot.”  

Most delegates, however, asserted that every South Carolinian should have the right to vote, whether he was literate or not. Alonzo Ransier averred that the right to vote “belongs alike to the wise and to the ignorant, to the virtuous and vicious.” Ransier hoped that the “music of the 19th century” would move the convention to strike out every word from the proposed constitution that might limit the “manhood” of the citizen with regard to his right to vote.

Similarly, the convention defeated a proposal to disfranchise individuals for nonpayment of their poll tax. Contrary to popular notion, a poll tax is not a tax on voting. It is simply a capitation, as opposed to income or property tax. Such taxes were common in the nineteenth century, and at the convention some delegates argued that a one dollar poll tax could provide ample support for the state’s proposed school system. Whatever they thought of the poll tax as a fiscal device, most delegates were concerned that tying this tax to the right to vote could be used in the future to disfranchise poor and black voters. Robert DeLarge said with some prescience, “If there was any system devised by man that could act as a perfect curse upon his fellows, it would be a system of poll tax. . . . Unless we insert in this Constitution an explicit provision that no man shall be disfranchised for nonpayment of poll tax, in a year’s time we may see a political party in position who will use it as an instrument against us for partisan purposes and to our injury.

Moses
called the proposed tax scheme a blow “at the freedmen of South Carolina who are among the poorest of the poor,” which would “allow power to go again in the hands of the [white] aristocratic element.” The convention did adopt a poll tax for the support of the schools, but nonpayment did not result in the forfeiture of an individual’s right to vote.

The new constitution abolished property qualifications for holding office and mandated popular election of presidential electors, the governor, and a number of other state and county officials, including justices of the peace. Ministers were, for the first time, declared to be eligible to hold public office. This was important because the clergy was a major source of political leadership for both blacks and poor whites. Both houses of the legislature were now to be apportioned solely on the basis of population and the old district system was abolished in favor of a more conventional division of the state into geographically compact and contiguous counties. This change was more than a change of name. It introduced a greater degree of local self-government than had existed in the state. The old districts had been judicial districts possessing no legislative or executive power, which were concentrated at the state level. Voters in each new county, by contrast, would elect a three-person board of commissioners with budgetary and taxing authority. The list of crimes that could result in loss of the franchise was also shortened considerably. Imprisonment for debt was abolished. Life tenure for judges was abolished and the terms of justices of the peace and circuit judges set at six and four years, respectively. The only restriction on political rights approved by the convention was aimed at former Confederates. A move to give the state legislature the power to restore the political rights of whites who had been disfranchised by the federal government was defeated. This guaranteed that portions of the prewar political class, at least initially, would be barred from the political arena.

One proposal to expand the suffrage was soundly defeated by the convention. This was William Whipper’s plea for women’s suffrage. Whipper argued that it was inappropriate to refuse voting rights
to a large segment of society to whom the law applied but who would have no power to shape the law. During this same period, Susan B. Anthony and Elizabeth Cady Stanton were making similar arguments in the North. The convention ignored Whipper’s plea for women’s voting rights, just as the larger society was ignoring Anthony and Stanton.

Education

Prior to the war, South Carolina lacked an effective system of public education. The planter elite that governed the state employed tutors for their children or sent them to private academies. They had little incentive to spend money on the education of their fellow citizens’ offspring. Appropriations for public schools and teachers were always meager, and most children received only a bit of schooling before joining the labor force. School attendance was not compulsory. In rural areas small farmers generally thought their children had better things to do than spend time on book learning, though they might teach them to read and write at home if they themselves were literate. All in all, perhaps 10 percent of the state’s white children of school age were enrolled in public school in any given year. 40 The public schools were not open to black children. Only a handful of the most fortunate blacks had any chance at all for an education. The new constitution required the state legislature to establish a universal system of education and required attendance by all children between the ages of six and sixteen for a minimum period of two years. The constitution also provided for the position of state superintendent of education and required each county to appoint a school commissioner. Together, the superintendent and commissioners would constitute the state board of education. Each county was to be divided into school districts and at least one school within each district was to be kept open every month of the year. The new educational system was to be financed through property taxes and a poll tax of one dollar. The constitution also required the state legislature to support the state university, a normal school
(teachers’ college), an agricultural college, and schools for the deaf, dumb, and blind. Schools supported by the state were to be open to all children, regardless of race or color.

No delegates opposed the creation of a public school system. The two issues that divided the convention were whether education should be compulsory and whether black and white children would attend the same schools. Many delegates, particularly those from rural areas, objected to the idea of compulsory education, arguing that farmers, whether black or white, depended on their children to work alongside them in the fields. But a number of the black delegates saw education as essential to the progress of the freedmen and wanted to be sure that black children would receive an education even if their parents did not fully grasp the value of schooling. For both black and white children, compulsory education would also function as a vehicle for citizenship training, teaching them to respect the new institutions established by the nation and the state when, in the case of the whites, their parents might be propounding a somewhat different lesson. Francis Cardozo explained the importance of compulsory civic education. “I appeal to the gentlemen of the convention to know whether they desire to see a state of anarchy or a state of confusion in South Carolina in the future. . . . The child that remains in ignorance until grown up will never learn the first duty that ought to be learned by every man, which is to love his country and love his state. . . . To be a good citizen every one should know what are the duties of a citizen, and the laws of the state and country in which he resides.”41 Several of the white delegates warned that whites would reject the proposed constitution if they believed that they would be forced to send their children to school with blacks. To this, Cardozo replied, “There is an element which is opposed to us, no matter what we do will never be conciliated. It is not that they are opposed so much to the constitution we may frame, but they are opposed to us sitting in convention. Their objection is of such a fundamental and radical nature that any attempt to frame a constitution to please them would be utterly abortive.”42 Cardozo went on to say that both black and white parents might
prefer to send their children to same-race schools, and within lim-
its, counties might establish separate black and white educational
institutions. However, he warned, “if any colored child wishes to
go to a white school, it shall have the privilege to do so.”43 As white
deleagtes had warned, this section of the constitution, more than
any other, became a touchstone for white opposition and resistance
to the new regime.

Equality before the Law

Opening the public schools to children of all races was just one of
the convention’s measures designed to legally mandate racial equal-
ity. Under the constitution, all racial distinctions were prohibited,
with all classes of citizens entitled to “enjoy equally all common,
public, legal and political privileges.” This provision meant that
no category of person could be prohibited from owning property,
disqualified as a witness in court, or denied an education. All the
prohibitions and exclusions associated with slavery and the more
recent Black Codes were outlawed. No class of individuals could be
subject to any other legal restraint or disqualification “than such as
are laid upon others under like circumstances.” Blacks were to be
entitled to serve in the state militia. Slavery and imprisonment for
debt were prohibited. The rights of women, too, were enhanced and
the property of married women declared to be no longer subject to
seizure to fulfill their husband’s debts.

The convention also made an effort to expunge the symbols of
inequality from the state’s life. In the context of the times, the dis-
tinction between symbol and substance was often complex. White
South Carolinians were often more horrified by acts that symbol-
ized the new order than they were by more substantive measures.
As Cardozo had observed, the fact that blacks constituted the con-
vention’s majority was more important to many of the state’s white
citizens than anything the convention might decide. Black Carolin-
ians, for their part, were eager for assurances that their status had
changed for the better and would continue to do so. Since what was being represented was an enormous political and social revolution, fierce struggles were sometimes waged in the state over symbolic issues.

Before the convention adopted the new constitution, a number of symbolic questions were debated. A proposal was introduced to outlaw the use of such epithets as “nigger” and “Yankee.” A proposal denouncing the state’s former government was adopted and a recommendation made to the military governor, General Canby, to remove all the state’s sitting judges because of their past association with the Confederate cause. And as a slap at former slave traders, all still-outstanding debts incurred for the purchase of slaves were annulled. “A few years ago,” said Robert Elliott, “the popular verdict of the country was passed upon the slave seller and the slave buyer, and both were found guilty of the enormous crime of slavery. The buyer of the slave received his sentence, which was the loss of the slave, and now we pass sentence upon the seller.” This provision had little practical effect since most of the relevant debtors had long since declared bankruptcy, but it was seen as a “moral rebuke” to those who had formerly trafficked in human beings. Some of the mulatto delegates, men who had no wish to disturb the sanctity of contracts, opposed this symbolic act of debt annulment and predicted that it would never survive a court challenge. Some years later, the South Carolina courts did indeed invalidate this constitutional provision as an impairment of the federal constitution’s guarantee of the obligation of contracts.

Public Finance

The 1868 constitution also established a new and more equitable tax system. Before the war, the state had depended heavily on poll taxes, and wealthy planters had all but escaped taxation of their land and property. The new constitution retained a one dollar poll tax but placed the main burden of taxation on real property. Ap-
proximately half the projected revenues from state taxes, including property and poll taxes, were earmarked for the support of the new public school system.

The new tax system was designed to generate substantially more revenue than the system it would soon replace. The prewar planter aristocracy had little need of government assistance and favored keeping both government expenditures and taxes to a minimum. In the postwar period, however, blacks hoped that more money in the state’s coffers would mean better schools, while a number of the carpetbaggers and scalawags hoped to use state funds to promote industrial and economic development.

Under the new constitution, real property was to be taxed at a rate of 3 percent, a sixfold increase over the prewar rate of 0.5 percent. It was estimated that this would result in state revenues of more than $2 million, a trivial sum by contemporary standards, but an enormous amount at the time. By comparison, South Carolina’s prewar public revenues were only $350,000 per year. If anything approaching $2 million could actually be collected, the state government would have more than adequate funding to build and maintain a system of public education while also embarking on an ambitious program of economic development. A land commission composed of blacks and whites, including Moses, Chamberlain, Robertson, and DeLarge, was created to begin the evaluation and assessment of real property within the state. The inauguration of the new tax system also had enormous implications for patterns of land ownership in the state (see below).

In addition to enhanced powers of taxation, the new constitution authorized the state to raise money through bonded indebtedness and placed no limit on the amount of debt that the state legislature could accrue in this way. The constitution also placed no restrictions on the legislature’s capacity to authorize private bond issues backed by the credit of the state. Some delegates had argued for a five hundred thousand dollar debt ceiling and against permitting the legislature to guarantee private bond issues. But this measure was defeated by the proponents of state-sponsored economic develop-
ment who saw, for example, railroad bond issues backed by the credit of the state as a major vehicle for that purpose.

Land

In some respects, the most important topic addressed by the convention was land, and it was here that Frank Moses played a significant role. Generally speaking, Moses was not a major figure at the 1868 Constitutional Convention. For the most part, the body’s deliberations were dominated by the able and articulate members of the Brown Fellowship Society, along with Francis Cardozo and Richard Cain. Moses had difficulty finding his footing in the unfamiliar terrain of a Republican conclave dominated by blacks. Moses had assumed that the freedmen would look to him for leadership, but for the most part, leadership was provided by DeLarge, Cain, Cardozo, and Ransier. White Republicans frequently reminded Moses that he was a very recent convert to the Radical cause and should hold his tongue. In a debate over land policy, for example, B. F. Whittemore, a white delegate from Darlington, sarcastically said to Moses, “We are very glad to hear the affirmations of the newly fledged, and we are very glad to know where they are going to stand. We are very glad to hear of their honesty, their purity of motives and their character.” Moses replied angrily that Whittemore had been “shirking” his duties to his black constituents. To this Whittemore said, “I shall not require any new comers in the flock to tell me that I shirk my duty.”

Moses frequently asserted that he had come to the convention with no goal or ambition beyond the welfare of the people of South Carolina. He claimed that he did not plan to seek any public office after the convention and that he intended to stick to his principles “undeterred alike by the frowns of open enemies, or the innuendos of pretended friends.” Asked if he was a candidate for Congress, Moses replied, “I stand here a candidate for no office. I came here to do my duty for my people.” “Bully for Moses,” was his interlocutor’s caustic reply. His protestations to the contrary notwith-
standing, Moses did aspire to public office. But in the unfamiliar context of the convention Moses had difficulty identifying an issue or position that would solidify his credentials as a committed Republican, much less catapult him to a place of leadership among the delegates.

In several instances Moses took positions that seemed better calculated to please his former white Democratic associates than his new Republican friends. He argued, for example, that for reasons of economy he opposed hiring a convention chaplain on the grounds that the several preachers among the delegates should provide the service on a voluntary basis. Blacks saw the chaplaincy as a useful patronage position and only the state’s white Democrats might have been interested in Moses’s desire to economize. Moses argued vehemently that an invitation to address the convention be extended to provisional governor Orr, a Democrat, hated by most Republicans because of his strong opposition to the effort to frame a new state constitution.

Moses launched a quixotic defense of freedom of the press. The vicious attacks mounted by the *Charleston Mercury* on both black and white convention delegates had led Daniel Chamberlain, a carpetbagger who would become governor of the state in 1874, to introduce a motion banning the *Mercury’s* reporters from the hall. Moses vehemently but unsuccessfully opposed this measure saying, “Good God . . . shall we abuse a newspaper on account of its mere opposition or burlesque of our course?” This was an unpopular stance among Republicans, particularly among the black delegates who reacted bitterly to the *Mercury’s* efforts to portray them as subhuman savages. And if Moses’s goal in these matters was to retain some ties to the state’s disaffected whites, his actions were of no avail. The state’s white press either ignored Moses or treated him with contempt as a man who had, by his participation in the Congo Convention, betrayed the “untainted” white men of the state.

The land issue gave Moses the opportunity he needed to affirm his Republican bona fides and assert a claim to leadership. Land was the most important issue facing the convention. Indeed, land
was the most important issue facing the South. The most radical northern Republicans, Charles Sumner and Thad Stevens, saw land redistribution as the linchpin of Reconstruction. The prewar South had been a landlord-peasant society in which an elite stratum of wealthy landowners controlled the region’s economy and political affairs. Millions of blacks and poor whites toiled on the land—the former as slaves, the latter as tenant farmers or smallholders. So long as a small number of proprietors held much of the South’s productive land, their economic power guaranteed that political and social equality for blacks or, for that matter, poor whites would be a sham. Land redistribution was essential to reconstructing the South’s politics and society. As Stevens put it in an 1865 speech, “The whole fabric of Southern society must be changed. . . . How can republican institutions, free schools, free churches, free social intercourse, exist in a mingled community of nabobs and serfs? If the South is ever to be made a safe republic, let her lands be cultivated by the toil of the owners.”

In 1867 Stevens introduced legislation that would confiscate millions of acres of land from southern planters and divide it up among the freedmen in forty-acre plots. Stevens calculated that the former Confederate states contained 465 million acres of land. Almost 85 percent of this total was owned by seventy thousand individuals. Stevens proposed that this land—about 395 million acres—should be confiscated by the federal government. From this total, each adult male freedman would be presented with forty acres at no charge. This would account for approximately 40 million acres. The remaining land would be divided into farms and sold to the highest bidder. Stevens further proposed that the proceeds from those sales should be used to pay pensions to veterans and their widows and orphans, to reimburse loyal individuals whose property had been destroyed during the war, and to pay off the national debt. Stevens admitted that land confiscation was a harsh measure that might drive the South’s former aristocrats into exile in South America or elsewhere. But what of it? “If they go, all the better,” he declared.” These seventy thousand land owners were, on the whole, the “arch
traitors,” and “since they had caused an unjust war they must be made to suffer the consequences.”

Stevens’s proposal had no real chance of adoption. Few northern Republicans supported land confiscation. Sen. John Sherman, brother of the famous general, feared that land confiscation would “disorganize and revolutionize society in the Southern states.” The New York Times said that “fear of confiscation” had paralyzed southern business and prevented investment in that region. The Times was even more concerned that if confiscation began it would not be limited to the South. The North’s industrial aristocracy began to worry that the implications of a policy of confiscation went beyond the South’s landed aristocracy. And indeed Sen. Benjamin Wade had declared that a more equal distribution of property should be sought throughout the nation. The Times warned that some Radical Republicans sought a war on all forms of property to succeed the war on slavery.

The slim chance that the federal government would adopt a confiscatory land policy was all but eliminated by the result of the 1867 congressional elections. Throughout the North, Republicans suffered an electoral drubbing and measures associated with the Radical Republicans, such as black suffrage referenda in Minnesota, Ohio, and Kansas, went down to defeat. The Republican party’s previously overwhelming majority in the Congress was substantially reduced, leaving the Radical group with far less power than it had wielded the previous year. Though many factors contributed to the Republican decline and Democratic resurgence, it was widely believed that the party’s identification with black rights, especially with radical demands for land redistribution, had proven to be disastrous at the northern polls. Henceforward, “let confiscation be an unspoken word in your state,” advised one Republican leader.

Stevens’s proposal, though, had touched off a wave of land hunger throughout the South. Hundreds of thousands of freedmen believed that the federal government had promised them forty acres of land and would not believe those who tried to tell them that this was simply a myth. The freedmen were so certain that they would
soon be receiving land that a group of Republican speakers toured the South in the spring of 1867 to inform gatherings of freedmen that no such commitment had been made by the federal government. Horace Greeley told one gathering that they were “more likely to earn a home than get one by any form of confiscation.”

From the perspective of South Carolina freedmen, the idea that the federal government would confiscate white-owned land and give it to them seemed neither mythical nor surprising. During the war, federal troops had occupied Hilton Head, Saint Helena, and other islands along the South Carolina coast. Large numbers of blacks had sought refuge on these islands and for several years were employed as farm workers on abandoned plantations under the supervision of federal authorities. Charitable groups in Boston and Philadelphia sent teachers and ministers to the islands as well. These northern volunteers encouraged blacks to dream of land ownership and also brought pressure to bear on the federal government to make land available for this purpose.

In 1864, in what came to be known as the “Sea Island experiment,” the U.S. government offered several thousand acres of this land in twenty- and forty-acre tracts to the heads of black families at $1.25 an acre. This price was within the reach of some blacks who had been working for wages on the federally operated plantations, and by 1865, more than five hundred plots had been sold to African Americans. Many more plots, however, were sold to white speculators. That same year, Gen. William T. Sherman issued his famous Field Order 15, which stipulated that nearly half a million acres of abandoned plantations and farms, along with the loan of army mules, be given to approximately forty thousand freed slaves then living on them. Sherman viewed his actions as an expedient means of relieving his command from the responsibility of feeding and caring for an enormous group of blacks. No legal title was conferred by the order. The freedmen, however, thought the land was theirs in perpetuity. They were encouraged in their belief by Sherman’s land administrator, Gen. Rufus Sexton, who told the freedmen “that they were to be put in possession of lands, upon which they might
locate their families and work out for themselves a living and re-
spectability.” By 1869 most of the original landowners had re-
sumed possession of their property with the assistance of federal
troops, but in 1868 at least some South Carolina freedmen had
reason to hope that the government would allow them to keep the
land upon which they had been encouraged to settle.

Of course, even in their heyday, the Sea Island experiment and
Field Order 15 provided land for only a small fraction of South Car-
olina’s black families. But tens of thousands of freedmen through-
out the state hoped that they, too, could acquire homes and small
farms for their families. Delegates to the 1868 convention were well
aware that their constituents wanted land. “I have gone through the
country,” reported Richard Cain, “and on every side I was besieged
with questions: How are we to get homesteads?”

Delegates were deeply divided over the issue of how land might
be provided for the freedmen. Virtually all the state’s arable land
belonged to white farmers and planters, and some delegates be-
lieved that Stevens’s idea of confiscation had been a good one. But
even without the outright confiscation of “rebel” lands proposed by
Stevens, an enormous amount of land owned by white Carolinians
was already or might soon be available for purchase at foreclosure
sales. Many of the state’s land owners were in desperate financial
straits in the winter and spring of 1868. Collectively, they owed
millions of dollars to banks, suppliers, and other creditors, certainly
more than they could hope to pay until their crops were harvested
and sold in the fall. Most had pledged their land as collateral for
their loans. The fearsome Radical Republican Thad Stevens might
not be able to confiscate the planters’ property, but their unctuous
and mild-mannered local banker surely could.

Several of the black delegates were not displeased with this state
of affairs. They believed that foreclosure sales might afford blacks
an opportunity to acquire land at a substantially discounted price.
As a result they were opposed to efforts to assist the beleaguered
planters through the enactment of “stay laws” and other instru-
ments designed to forestall foreclosures. Francis Cardozo spoke for many of the black delegates when he declared,

This is the only way by which we will break up [the plantation] system, and I maintain that our freedom will be of no effect if we allow it to continue. What is the main cause of the prosperity of the North? It is because every man has his own farm and is free and independent. Let the lands of the South be similarly divided. If [the plantations] are sold . . . the chances are that the colored man and the poor man would be the purchasers. . . . Now [while the planters are weak] is the time to take the advantage. . . . I say then just as General Grant said when he had Lee hemmed in around Petersburg; now is the time to strike, and in so doing we will strike for our people and posterity.64

Another group of delegates also welcomed foreclosure sales. These were the land speculators, the carpetbaggers and the wealthy scalawag Thomas J. Robertson. “I for one,” said Robertson, “am willing to see the property of the country change hands, and if lands are sold cheap, so much better for working men. It will enable poor men to provide themselves with a home, and identify each one more closely with the soil.” Robertson appealed to the black delegates’ anger at the abuse they were suffering every day in the white press. “The men asking relief,” he charged, “call this convention a menagerie, a collection of wild animals. Is this menagerie to protect their property at the expense of the loyal citizens, and the working men of the country?”65

Many delegates agreed with Cardozo and with Robertson’s radical discourse. The state’s Republican leadership, however, was concerned that a wave of foreclosures would give the impression that South Carolina Republicans had adopted a confiscatory land program in opposition to the policy mandated by the national Republican leadership. Accordingly, the convention’s leaders, Robert DeLarge, Joseph Rainey, and Alonzo Ransier, argued vehemently in favor of offering relief to distressed land owners. “Is there a man
upon this floor,” asked DeLarge, “who does not feel it incumbent upon him to do everything possible to relieve the sufferings of his fellow men?”66 Most of the land that might be sold after foreclosure, said DeLarge, would fall into the hands of speculators rather than freedmen. “[The lands] will pass into the hands of the merciless speculator, who will never allow a poor man to get an inch unless he can draw his life blood from him in return. The poor freedmen are the poorest of the poor, and unprepared to purchase lands.”67 And as to the argument that the endangered white landowners were former Confederates who deserved to lose their land, DeLarge claimed that many had been loyal to the Union and had been “forced into the Confederate army.”68

DeLarge undoubtedly knew that few of South Carolina’s farmers or planters had been forced to fight for the Confederacy. Most were willing, indeed, enthusiastic soldiers. Current political considerations, though, compelled him to make the case for relief. Besides, DeLarge added, adoption of the proposed tax code would have the effect of forcing planters to sell a good deal of land over the next several years.69 A “stay” on current foreclosures might offer poor freedmen sufficient time to accumulate capital with which to buy land that would almost surely fall into the hands of speculators if it was immediately thrown on to the market. Later, too, the uproar over confiscation might diminish and land redistribution in South Carolina be undertaken without threatening the national fortunes of the Republican party. Indeed, during Reconstruction, as DeLarge predicted, many large South Carolina estates were broken up and portions sold off to pay taxes. With the return of white rule in 1876, though, much of this land was restored to the original owners.70

On the vitally important issue of land redistribution, Moses moved to align himself with the convention’s black Republican leaders. Moses offered the resolution, which would be supported by DeLarge and the others, asking General Canby to impose a three-month moratorium on property foreclosures. During the debate on the resolution, Moses echoed DeLarge’s claim that the freedmen were too poor to benefit from forced land sales. “I venture to say
that not one in two thousand laboring men can buy an acre of land. I say they have not the money,” he declared. And, like DeLarge, Moses averred that many of the endangered landholders had been loyal Union men. After a lengthy debate, this motion carried by a narrow margin, as did a homestead provision exempting a landowner’s first one hundred acres from foreclosure by creditors.

Through these actions, the convention’s leaders protected themselves from being accused of adopting a program of land confiscation. But stay and homestead provisions did not respond to the demands of the freedmen for an opportunity to own land. To this end, Richard Cain introduced a resolution petitioning Congress to appropriate the sum of $1 million from the budget of the Freedmen’s Bureau in the form of a loan to the state. That money would be used to provide loans to freedmen to purchase homesteads of ten to one hundred acres. It was to be repaid within five years from the sale of crops produced by the landholders.

Cain’s scheme was immediately denounced as a fraud by most of the convention’s carpetbaggers and native land speculators. A New York Tribune reporter covering the convention saw Cain’s proposal as a political ruse and declared in an article opposing federal subsides that the freedmen needed to learn how to fend for themselves. They should “root hog or die,” the reporter said. Cain replied, “The abolition of slavery has thrown these people upon their own resources. How are they to live? I know the philosopher of the New York Tribune says, ‘root hog or die,’ but in the meantime we ought to have some place to root. My proposition is simply to give the hog some place to root.” Cain’s proposal was strongly supported by DeLarge and Ransier. And Moses quickly became one of its staunchest advocates. In a lengthy speech supporting the land purchase plan, Moses proclaimed that “you cannot make citizens out of these people [former slaves] unless you give them those things which make men citizens. . . . Give them land; give them houses. They deserve it from the people of South Carolina.”

After the proposal was adopted, the convention received word from Washington that the federal government would not agree to
loan the necessary funds to the state. Cain, DeLarge, and Moses presented an alternative plan to the convention. Rather than depend on the federal government for funding, they proposed that the state of South Carolina should create a land commission known as the Board of Public Lands. This commission would be authorized to issue bonds and, thereby, raise money with which to purchase land at public sale. The land would be divided into tracts to be sold on credit to “actual settlers,” not land speculators. Purchasers would be required to farm the land and to pay taxes and pay interest until the loan from the state was repaid.\footnote{This provision, patterned after the national Homestead Act of 1862, was adopted virtually without debate as a substitute for the now-abandoned notion of petitioning Congress for assistance. The land commission turned out to be an extremely important institution. Over the next several years, even as the state’s economy improved, the new tax structure created by the convention forced landowners to sell thousands of acres of farmland every year. A portion of this land was purchased by the commission and resold, mainly to black farmers. By the end of Reconstruction, approximately fourteen thousand black families had been able to acquire land from the commission.\footnote{After 1876, most of this land was regained by whites, but a small number of black families continued to hold title to what had once been “commission land” well into the twentieth century.} After 1876, most of this land was regained by whites, but a small number of black families continued to hold title to what had once been “commission land” well into the twentieth century.\footnote{Taken as a whole, South Carolina’s new constitution mandated a political and social revolution in the state. The former ruling stratum was, at least for the time being, barred from taking part in political life. The former slaves were enfranchised and placed in a position of legal equality with their former masters. Hypothetically, at least, poor whites, too, would benefit from the elimination of the property restrictions, poll taxes, and literacy tests that had delimited political participation. Of course, whites bitterly denounced the new constitution as “radical,” “bogus,” “monstrous,” and “unjust.” It was, said the \textit{Charleston Mercury}, “a subversion of the American republic,” de-}
signed to “establish Negro rule.” The worst part of the new constitution, thundered the *Mercury*, was that whites were to be forced to send their children, both male and female, to school with blacks where they would be “debased and corrupted.” The *Sumter Watchman* declared that the convention was “the work of sixty-odd Negroes, many of them ignorant and depraved, together with fifty white men, outcasts of Northern society, and Southern renegades, betrayers of their race and country.”80 Despite this heated rhetoric, whites eventually came to accept most elements of the new constitution including the public school system. Whether they would admit it or not, most of the state’s white citizens benefited from the democratic reforms embodied in the document. Interestingly, in 1895, some years after white rule had been restored in South Carolina, a new constitution was written. This new document incorporated most of the 1868 constitution. Only those sections that provided rights for blacks were completely eliminated. Apparently, the work of the “ringed streaked-striped convention” turned out not to have been so terrible, after all.

Nevertheless, in the immediate aftermath of the 1868 convention, whites organized to fight against the adoption of the new constitution. White objections, of course, centered on the provisions for racial equality. The constitution was called “an instrument for negro rule and supremacy at the point of the sword and the bayonet.” Many whites also objected to the new, racially integrated public school system, as well as the taxes needed to pay for it.

White Democratic clubs began to organize vigorously, and on April 2, white Democrats held their own convention in Columbia to protest the proposed constitution as well as to nominate candidates for the 1868 statewide elections to be held in conjunction with the popular referendum on the new constitution. This Democratic convention issued a lengthy set of objections to the constitution and even called on the black citizens of the state to reject the new constitution as an alien document imposed by force. White Democrats promised that they would eventually grant blacks “qualified by property and intelligence” the right to vote and other privileges, as well.81
This promise made little impression on black voters, and in a special statewide vote held in April 1868, the proposed constitution was adopted by about seventy thousand to twenty-seven thousand.

Whites were not yet ready to give up hope. The Democratic party’s executive committee addressed a formal protest to the U.S. Congress, which had the authority to accept or reject the new constitution. The protest included a number of exhibits and attachments detailing the constitution’s defects, ranging from the new political rights granted to blacks and the continued disfranchisement of whites who supported the rebellion, to the taxes that were to be imposed to support the public school system. As a result of black suffrage, “intelligence, virtue and patriotism” would give way to “ignorance, stupidity and vice. The superior race is to be made subservient to the inferior.” The constitution was denounced as “the work of Northern adventurers, Southern renegades, and ignorant Negroes.” It was said that “not one per cent of the white population of the state approves it, and not two percent of the negroes who voted for its adoption understand what the act of voting implied.”

Congress, however, was unimpressed by these objections. Indeed, Rep. Thaddeus Stevens of Pennsylvania was moved to reply: “What the protest claimed as grievances . . . [we regard] as virtues.” South Carolina’s new system of government was now a fact.

During the last week of the Constitutional Convention, the state Republican party held its convention in Charleston to nominate candidates for the 1868 statewide elections, which would be held in conjunction with the popular referendum on the proposed Constitution. Many of the Constitutional Convention delegates also served as delegates to this nominating convention. Robert Scott was named the Republican gubernatorial candidate, and Lemuel Boozer, a scalawag, was nominated for the position of lieutenant governor. Republican leaders continued to believe that it was politically expedient to show a mainly white face to the nation. Hence, the only black man nominated for statewide office was Francis Cardozo, slated for the position of secretary of state (1868–72). Moses, who had shown his loyalty and demonstrated his worth at the conven-
tion, was named the party’s candidate for the powerful post of adjutant and inspector general. This position would give him control over the state militia, an important source of patronage as well as an important instrument for defending Republican rule. In addition, Moses was named a candidate for the state legislature.

With the continued disfranchisement of much of the white political class, Republican statewide candidates were certain to be victorious. Nevertheless, the Union League vigorously organized its black constituents while Democratic clubs made an effort both to rally those whites who had the right to vote and to inhibit voting by blacks. Through the three days of voting, efforts to intimidate black voters and candidates were common. A number of blacks were murdered, including two candidates for the state legislature whose murders were ordered by the Ku Klux Klan acting in concert with Democratic party leaders. At least one white Republican was shot to death after a campaign rally. Only determined efforts by federal troops prevented armed bands of white thugs connected to the Democratic party from completely disrupting the voting process. White Democrats charged that blacks had been secretly arming themselves in preparation for a statewide attack against the white populace, but nothing of the sort ever materialized. Virtually all the violence connected with the 1868 election was directed by white Democrats against blacks and against white Republicans.

With the ratification of the new state constitution and the election of state officers, the stage was set for the readmission of South Carolina to the Union. The new legislature was convened in July and quickly ratified the Fourteenth Amendment to the U.S. Constitution, the key condition set by Congress for the readmission of any southern state. Congress responded by duly swearing in South Carolina’s new senators and representatives, and declaring the reconstruction of the state to be complete. Moses easily won election. Republican campaigners told credulous voters that he was the Moses from the Bible, returned to earth to lead them from bondage to the promised land just as he had led the children of Israel so many millennia earlier.