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Ezekiel Gillespie's attempt to vote in Wisconsin's 1865 general election led to a lawsuit that extended voting rights to black men in Wisconsin.

BLACK SUFFRAGE IN EARLY WISCONSIN

BY CHRISTY CLARK-PUJARA

On October 31, 1865, Ezekiel Gillespie went to “the place of registration on the flats in the Seventh ward” in Milwaukee and asked that his name be added to the list of eligible voters. His request was denied.¹ The next day Gillespie attempted to vote. He was turned away. Gillespie, a former slave from Tennessee who had lived in Milwaukee as a free man since 1854, filed the lawsuit that would lead the state supreme court to grant suffrage to black men in 1866, making Wisconsin the first state in the Midwest to do so.² But it had taken many long years to get there. A wrongly interpreted technicality from an 1849 vote had kept black men in the state of Wisconsin from the ballot box for nearly two decades, an illustration of the institutional methods by which racism and prejudice among the early white settlers of Wisconsin pushed black people to the margins of society.³

In the eighteenth and nineteenth centuries, African Americans composed a tiny minority of the Wisconsin population. The first black people were brought into the territory in the 1740s by French fur traders; the majority of these were slaves. In the 1820s, military officers and lead miners brought more enslaved African Americans into the territory. The Wisconsin Territory’s first governor, Henry Dodge, held six people in bondage. Although the 1787 Northwest Ordinance forbade slaveholding in the territories, the ban was rarely enforced. And yet Wisconsinites held very few slaves overall. Only eleven of the estimated 196 African Americans in the territory in 1840 were enslaved.⁴

There were few African Americans in Wisconsin and even fewer enslaved black people; however, race informed the white settlers’ evolving ideas about which people were desirable residents and citizens. Some white Wisconsinites wanted a region free of all blacks, whether free or enslaved. Others did not give black settlement much thought. Although most white Wisconsinites were antislavery and free labor advocates, few worked actively to end slavery—and even fewer supported equal rights for black Americans. One of the reasons Wisconsin’s first state constitution was rejected, historians believe, was because of white Wisconsinites’ objections to the question of black suffrage, which would have gone to vote concurrently with the constitution.⁵ The larger implications of debating and ultimately banning black suffrage have gone unexplored, just as the history of black people in early Wisconsin has been largely understudied.⁶

Black male suffrage was a contentious issue throughout the antebellum North. In 1830, northeastern states with small black populations allowed black men to vote, while northeastern states with larger black populations disenfranchised them. New York, home to the largest black population in the northeast, required black men to meet a property qualification in order to vote, a requirement that white men were spared. All Midwestern states initially barred or restricted black men

from voting. Although some of these exclusions were lifted in the years leading up to the Civil War throughout the North, most African American men were disenfranchised.⁷ They were free, but they did not have liberty.

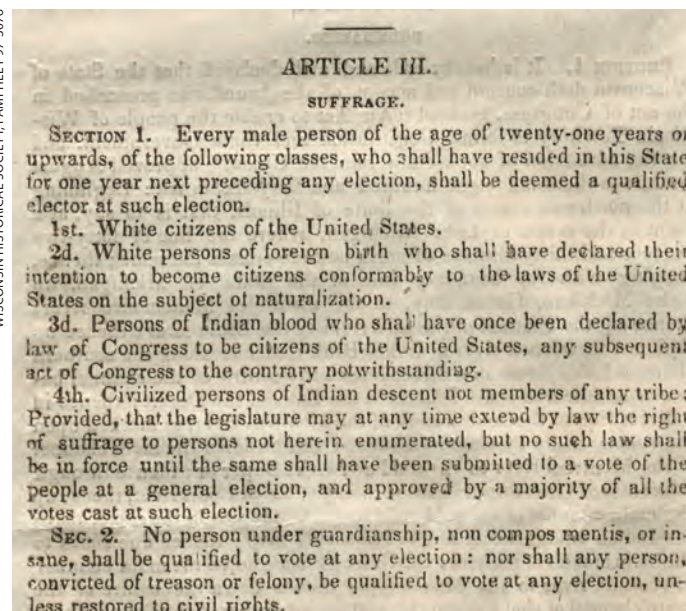
In Wisconsin, black suffrage was both affirmed and denied by early settlers and citizens.⁸ The “negro cook” of Solomon Juneau, Joe Oliver, voted in Milwaukee city elections in 1835. His participation, according to historian John G. Gregory, was an anomaly that “illustrated the ambition to secure a large vote rather than devotion to the principal of universal suffrage.”⁹ Eleven years later, in 1846, a resolution for a referendum on black male suffrage was inserted into Wisconsin’s first proposed constitution:

That at the same time when the votes of the electors shall be taken for the adoption or rejection of this constitution, and additional section in the following words, that is to say, “All male citizens of the African blood, possessing the qualifications required by the first section of the article on ‘Suffrage and the elective franchise,’ shall have the right to vote for all officers and be eligible to all offices that now are or hereafter may be elective by the people after the adoption of this constitution,” shall be submitted by the electors of the state for adoption or rejection.¹⁰

A separate ballot would determine whether black men would receive the vote along with white men, “all Indians deemed to be citizens by any act of Congress,” and “Indians . . . not members of any tribe.”¹¹ The resolution would require black men to be 21 years or older and have resided in the state for at least a year; moreover, it would nullify the racial qualifiers that restricted the vote to white men and Native American men.¹² The proposed 1846 constitution did not guarantee black suffrage, but by putting black suffrage to a vote, it allowed for the possibility of African American men voting.

The debate over black suffrage during the 1846 constitutional convention revealed the overt racism among some leaders in the territorial government.¹³ Edward G. Ryan, a future Democratic Party leader, asserted that God had placed white and black apart and man should not attempt to place them together, and he argued that even entertaining the question of black suffrage would induce runaways to flee to Wisconsin instead of Canada. Ryan warned of the dangers of hosting free blacks: using the black population in New York as an example, he claimed that “every negro was a thief, and every negro woman far worse.”¹⁴ Moses M. Strong, a prominent member of the upper house of Wisconsin’s territorial legislature, asserted that if the black vote was included the state constitution “would not receive fifty votes west of Rock River; the people would deem it an infringement upon their natural rights thus to place them upon an equality with the colored race.”¹⁵

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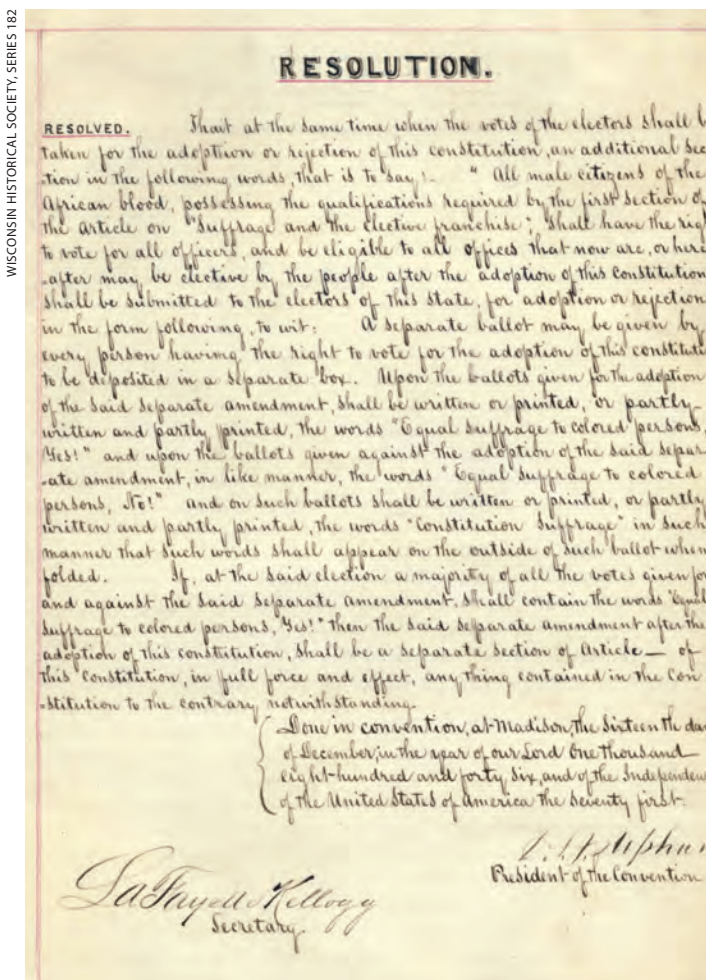


The article on suffrage in Wisconsin’s 1848 constitution outlined racial and gendered restrictions on voting.

Other delegates highlighted the hypocrisy and prejudice of these arguments. Speaking in favor of black suffrage, Moses Gibson, a future Republican assembly member, argued that it seemed odd to object to black suffrage and not “Indian” suffrage, and noted that black suffrage in New York had gone smoothly.¹⁶ Gibson saw black suffrage not as narrow question of political participation but as a broader question of integrating African Americans into mainstream society. In his speech, he asked, “Should we extend the colored race the right of free suffrage and still refuse to comingle, intermarry, and eat and drink with them?” Gibson further noted that “if the people of the west were opposed to negro suffrage, the people of the east were equally in favor of it.”¹⁷ The delegates debated the contents of the constitution for ten weeks; four months later, in April 1846, the constitution was rejected, and along with it black suffrage.

The state’s second constitution, proposed in 1848, more overtly excluded black men from the vote. In nearly identical language, suffrage was again restricted to white men and Native American men.¹⁸ It went on to say that “the legislature may at any time extend by law the right of suffrage to persons not herein enumerated, but no such law shall be in force until the same shall have been submitted to a vote of the people,” again by a “majority of all the votes cast in a general election.”¹⁹ Notably, black men were among these not mentioned. The omission, along with the racially-charged language of the article, was noted at the time by the state’s progressive press. The *Waukesha American Freeman* excoriated the constitution’s supporters:

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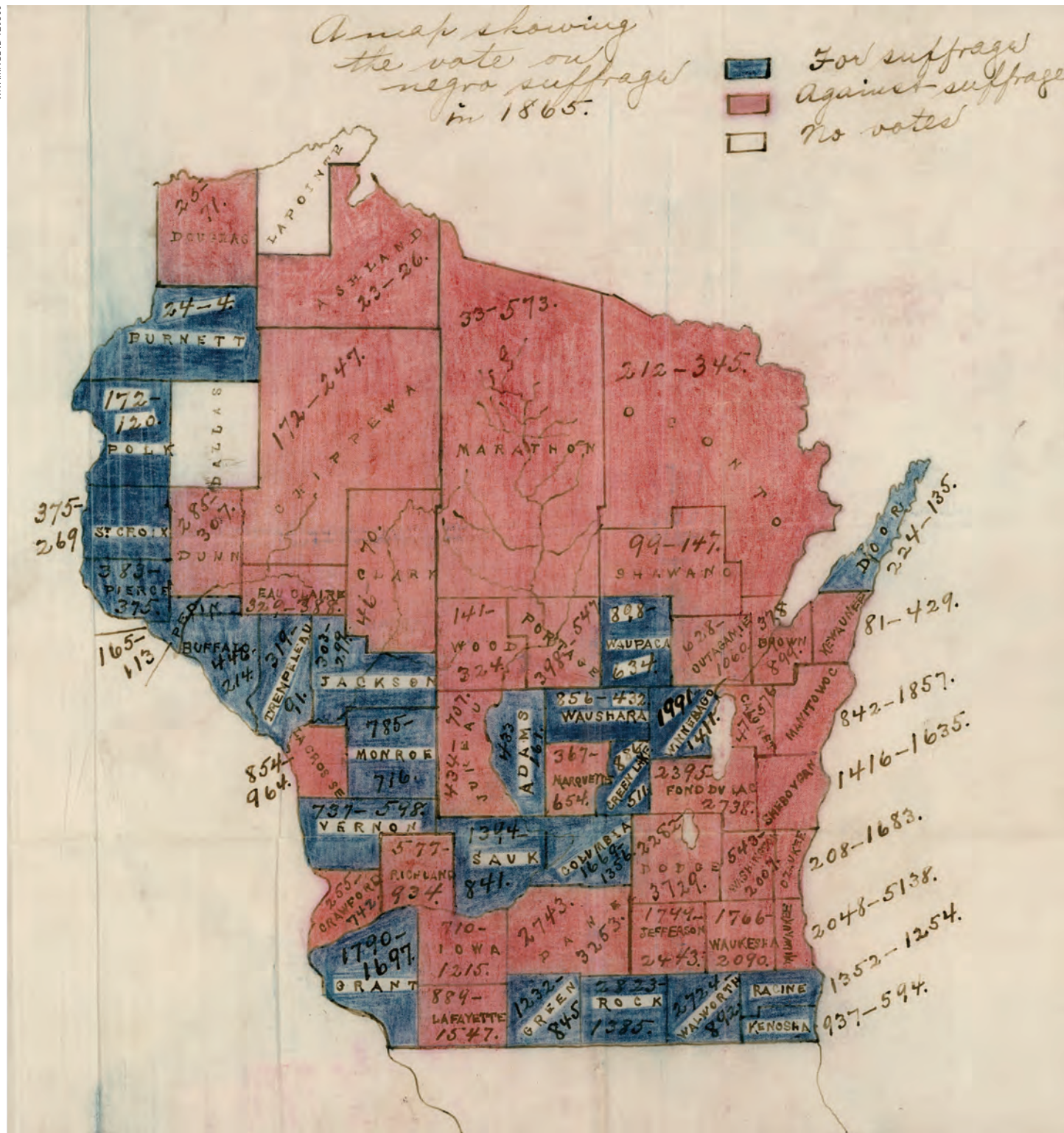


Referendum on black male suffrage in Wisconsin’s failed 1846 constitution



Ezekiel Gillespie’s lawyer, Sherman Booth, was a prominent Milwaukee lawyer.

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A hand-drawn map showing counties in support and opposition of black male suffrage in the 1865 referendum. The vote, which was 46,588 (46 percent) in favor and 55,591 (54 percent) not in favor, was rendered moot by the Wisconsin Supreme Court's decision to uphold the results of the 1849 referendum.

[The constitution] contains that same infamously black word “white”; and if there were no other objections to it, it should be voted down by every friend of human rights. For it contains in theory the principle of contempt for the rights of man. The right of suffrage, notwithstanding the flippant prating of misnamed Democrats to the contrary, is an inalienable right; and when the constitution denies it to any, though a black man, it in principle denies it to all men; and it therefore allows it to some as a matter or convenience, and not as a right. Every man who voted for the word “white” is unsound in the true Democratic faith and should be rejected as unprincipled by the people. As so should the constitution.²⁰

In addition to the moral argument was a practical one: before 1860, black Americans made up less than one percent of the state population. Their numbers did not pose a political threat to the state’s white establishment.²¹

Despite these critiques, the 1848 constitution was approved and adopted. The message was clear: African Americans had no place in the state of Wisconsin. Suffrage in a new state meant more than political power—it provided the opportunity to shape the formation of new state institutions and society at large. Although there were not enough black Wisconsinites to constitute a voting bloc, black voters could have aligned themselves with progressive Republicans to at least get their concerns heard and considered. Wisconsin’s first voters chose who was going to organize the school system, the courts, and town and state governments, and how they would do it. Furthermore, the disenfranchisement of black men rendered them illegible for any public office—legislative, executive, administrative, or judicial. As Moses Gibson feared, black Americans were excluded from mainstream society in the state of Wisconsin. Yet, even as fears of black migrants and black political participation led white Wisconsinites to restrict the rights of black residents, the state served as a safe haven for fugitive slaves, and the state’s Republican Party remained among the most progressive and pro-suffrage in the nation.²² This was the context in which white Wisconsinites debated black suffrage and black Wisconsinites fought for full citizenship.

In 1849, the first state legislature authorized a referendum on black suffrage as provided in the constitution: some of the members felt the issue had been ignored in the 1848 constitutional debates and wanted to put the issue to the voters. Although it was approved 5,265 votes to 4,075, the vast majority of Wisconsin’s white voters chose *not* to vote on the referendum at all. Far more votes, 31,759, had been cast in the governor’s race.²³ The State Board of Canvassers treated the referendum’s abstentions as no-votes—paying strict attention to the clause in the state constitution that it should be determined by “a majority of *all* the votes cast in a general election” —and concluded that a majority of

voters did not support the referendum (my emphasis). In fact, these non-votes suggest that the majority of white Wisconsin voters were unconcerned with whether black Americans could participate in the society in which they lived. For them, black rights were of little or no consequence. White voter indifference, however, had serious consequences for African Americans in Wisconsin who were now excluded from the electorate based on the canvasser’s interpretation. The fight for black suffrage was far from over.

In 1855, the Wisconsin Republican Party adopted universal male suffrage as part of its party platform. The resolution read:

That the fundamental principles of the Republican party are based upon the equal rights of all men; that these principles are utterly hostile to the proscription of any on account of birth place, religion or color.²⁴

African Americans quickly responded to the Party’s show of support and circulated a petition in support of universal male suffrage. At a meeting in Milwaukee on November 6, 1855, a gathering of black Wisconsinites adopted the following preamble and resolution:

Where The Right of Suffrage is extended to all persons, irrespective of birth, creed or clime, except to the colored man, and believing that this Right is mostly unjustly withheld from us as men; therefore, Resolved—That we will circulate throughout the State Petitions for Signatures, asking the Legislature at its next Session to adopt such measures as will secure us this God-given right.²⁵

Their meeting and resolution reveals a community concerned about the limitations placed on their rights.²⁶ Black Wisconsinites resented their political marginalization, and they did so publically. One of the resolutions they passed that evening was “Resolved—That the proceeding of this meeting be published in the Milwaukee Daily Free Democrat and Sentinel.” They wanted the average Wisconsinite to be aware of the racism black Americans faced and to know that black people opposed the denial of their rights.

In 1857, the Republicans, unable to come to consensus, dropped black suffrage from their party platform. Fearing white backlash, they did not mention black suffrage at all. In contrast, the state Democrats adopted a resolution declaring that they were “unalterably opposed to the extension of right of suffrage to the Negro race, and will never consent that the odious doctrine of Negro equality shall find a place upon the statute books of Wisconsin.” In a referendum that year, white Wisconsinites reaffirmed their denial of black suffrage: 45,157 voted against black suffrage while 31,964 voted in favor of it.²⁷

In the years preceding and following the Civil War, black Wisconsinites continued to petition the state for the right to

