

# OHIO VALLEY HISTORY

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Cover: Entrance of the Fifty-fifth Massachusetts Regiment into Charleston, an example of USCT. The Filson Historical Society		

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# “For the Sake of the Songs of the Men Made Free”: *James Speed and the Emancipationists’ Dilemma in Nineteenth-century Kentucky*

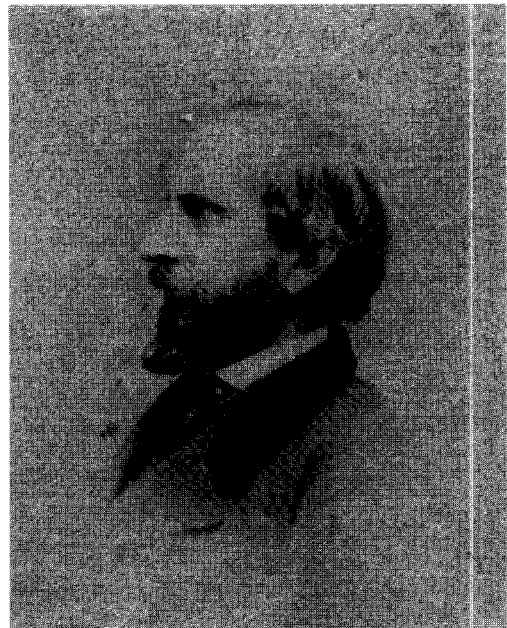
JENNIFER COLE

“Slavery is the curse of the State. I would willingly adopt any feasible plan to be rid of it,” wrote James Speed in his journal entry of April 10, 1844, thereby revealing his private reflections on slavery.<sup>1</sup> Throughout his early public life in Kentucky, James Speed, like many other affluent, politically-active, upper class white men in his home state, supported a plan of gradual emancipation of slaves in the face of a growing commercial slave market. No abolitionist, Speed initially opposed the idea of immediate emancipation through the federal war powers but eventually accepted the Emancipation Proclamation once the threat of Kentucky’s secession had passed. After the war, as a Radical Republican in Kentucky, he continued to struggle for the rights of African Americans.<sup>2</sup>

James Speed was not one of the most prominent antislavery men in Kentucky or the nation, but he did direct a sizable portion of his public and political energy to the fight to free the enslaved African Americans. The tensions in his life between black and white, state and nation, and unionism and secession highlight the experience of life in an antebellum and Civil War era border state.

Born March 11, 1812, James Speed grew up surrounded by slaves at Farmington, his family’s Kentucky plantation. Located a few miles outside of Louisville, Farmington boasted a self-sufficient hemp operation. Speed was the oldest son of John Speed, a Virginian who had traveled the Wilderness Road as a youth with his family and settled originally in Danville, Kentucky. In the early 1810s, John Speed purchased land and moved with his second wife, Lucy Gilmer Fry Speed, to a new home on the Beargrass Creek east of Louisville. In 1815, they commenced building their home and farm.<sup>3</sup>

At the time of his death in 1840, John Speed owned over fifty slaves. James Speed, as the oldest son, could have simply taken over as master and continued to live a relatively easy life as provided by his family’s slaves. Instead,



*James Speed, circa 1860.  
The Filson Historical  
Society*

Speed owned few slaves throughout his life. Later in life, Speed recalled his early years working side by side with the slaves in the fields; he experienced the slaves as playmates and co-workers. He was careful to mention, however, that his family's slaves were smarter, harder working, more competent, more independent than those on other such farms because "they were in contact with a higher civilization." Nevertheless, in his mind, the slaves he worked alongside were by no means his equals.<sup>4</sup> Indeed, James Speed worked in the fields only half of the year, unlike his family's slaves, who worked year-round. During the other half of the year he attended local schools. At the age of sixteen

he graduated from St. Joseph's College in Bardstown, Kentucky; from 1828 to 1831 he worked in the Jefferson County Clerk's office under Worden Pope.<sup>5</sup> At the end of that time, Speed entered the law department at Transylvania University in Lexington and graduated with a degree in law in 1833.<sup>6</sup>



*Farmington Historic Home. The Filson Historical Society*

Speed's lifelong employment as a lawyer began during a two-year law apprenticeship and practice with a noted local attorney, Thomas F. Marshall.<sup>7</sup> Speed then partnered with Henry Pirtle, commencing both a two-decade-long practice and even longer friendship. The partnership ended in 1850 when

Pirtle became the judge of Louisville's Chancery Court. Before this time, however, James Speed had become involved in something more far-reaching than his Louisville law practice.<sup>8</sup> In July of 1847, citizens of Louisville had elected Speed to the Kentucky House of Representatives where he served only briefly, in fact but one session. Speed wrote several letters home to his mother during his time in the legislature at Frankfort. He spoke mostly of the burden of being a representative from Louisville, lamenting that the task was "an arduous trust, if faithfully discharged." Despite feeling that most matters before him were frivolous and foolish, Speed took this job very seriously, not wanting to offend any earnest applicants.<sup>9</sup>

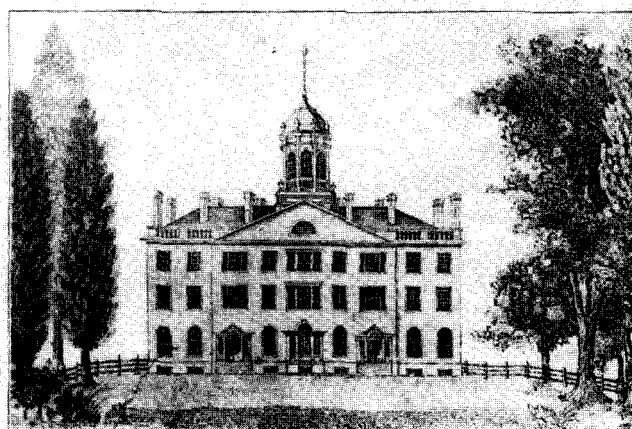
Late in the session, Speed became involved in a major issue; namely, fighting the repeal of the Non-Importation Act of 1833. This act prohibited further importation of slaves into Kentucky. This political dust-up was potentially Speed's first public action against slavery. To be involved in the antislavery or gradual emancipation movement in Kentucky was not unusual for slave owners in the state. Indeed, a majority of conservative antislavery men in Kentucky were themselves slave owners. Many of these men, and Kentuckians

in general, believed slavery to be a “necessary evil.” They believed that morally, and perhaps economically, slavery was wrong. Despite such beliefs, these men would not challenge the status quo of slavery until they had developed another suitable instrument for repressing the state’s African Americans. They took very small steps in their fight against slavery, such as the Non-Importation Act of 1833.<sup>10</sup>

The Non-Importation Act of 1833 in fact had a forty-year history in Kentucky, going back to Kentucky’s first constitution. Adopted in 1792, Kentucky’s original constitution reflected the state’s Virginia heritage by maintaining slavery as a legal institution. During the state’s nascent period, with slave labor in high demand, leaders had devoted an entire article of Kentucky’s constitution (Article IX) to slavery; indeed, proslavery framers had worded the article in such a way as to prevent the general emancipation of slaves. Yet the Kentucky framers did not want the enslaved population of Kentucky to become too large. As a result, the constitution they constructed prohibited resident Kentuckians as well as those who would migrate to the state from importing slaves they might purchase from foreign countries after 1798. In 1794 the Kentucky legislature passed an act ending the importation of slaves into the state. The slave code of Kentucky, established in 1789, carried out the constitutional framers’ instructions regarding the prohibition of foreign slave importation to Kentucky and established a three-hundred-dollar fine for persons importing slaves as chattels. Subsequent acts passed in 1814 and 1815 made minor modifications to these laws. Until 1833, Kentucky law allowed for the importation of slaves with the stipulation that immigrants would swear an oath that they would not sell slaves they imported to the state and that they would possess their bondpeople only for personal use. Ultimately, in large areas of Kentucky, state courts did not enforce non-importation and loose administration of the law allowed owners to evade punishment for infractions of it.<sup>11</sup>

Citizens of Kentucky with emancipationist sentiments presented a petition regarding non-importation to the legislature of Kentucky in 1828; an early act on this matter was defeated in the state Senate, but newspapers kept the debate alive. Members of the legislature introduced other non-importation bills in 1831 and 1832, both of which the Kentucky Senate voted down. Yet a deepening desire to curtail the domestic slave trade into Kentucky and thereby

*Transylvania University, circa 1820. The Filson Historical Society*



SECOND MAIN BUILDING OF TRANSYLVANIA UNIVERSITY. ERECTED 1818. BURNED 1829.

to limit and control the slave population led ultimately to the Non-Importation Act of 1833. Although it declared that *no* slaves could be brought into Kentucky, the act made exceptions for immigrants who would swear an oath that the slave was for personal use only. If an owner imported slaves for the purpose of being sold, the state could punish the infractor by imposing a six-hundred-dollar fine. Cassius M. Clay wrote in 1840 of the Non-Importation Act: "The effect was as anticipated, and it has rolled back the tide of black population which, like a lava flood, threatened sudden ruin to our beloved Kentucky." Many slaveholders supported this act as a way to increase the value of slaves already in Kentucky. Antislavery advocates promoted the Non-

Importation Act as well; they understood it as a means to keeping open a path toward a general emancipation in Kentucky.<sup>12</sup>



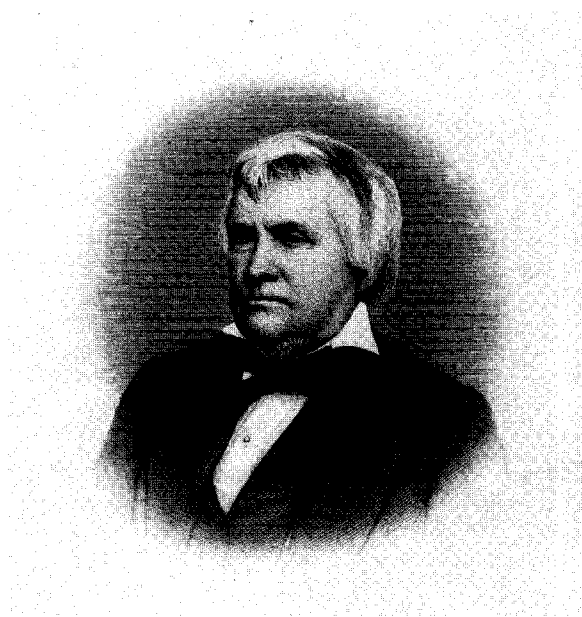
Thomas F. Marshall. E. P. Whaites, publisher. Cincinnati Museum Center, Cincinnati Historical Society Library

As soon as the act passed the legislature, a number of proslavery Kentuckians began a campaign to repeal or modify the law which some interpreted as a move to end slavery. Those comprising the proslavery element included many who made a profit from importing and then re-selling slaves to states further south. The question of repealing the Non-Importation Act came annually before the legislature of Kentucky and Speed opposed the repeal during his term as state representative. He and other anti-importation representatives attempted to make a repeal bill less attractive by attaching to it a rider denying slave owners compensation for imported slaves who the state had executed for committing felonies. Speed argued separately for an addition to the rider that would have forced slave owners to pay for damages that their imported slaves had committed.

Publicly, Speed resisted the importation of slaves into Kentucky in order to protect the state, despite any private, moral sentiments he might have held against slavery. He used pragmatic arguments against slavery and examined the question of slavery with regard to its effect on the Commonwealth. As expected, the Senate voted down the rider that Speed promoted for the repeal bill, but did not repeal the Non-Importation Act itself during his term. A subsequent repeal bill re-emerged in 1849. Speed, no longer in the Kentucky House of Representatives, wrote a letter to the *Louisville Daily Courier* against the modification of the Non-Importation Act of 1833. In this printed letter, Speed once again expressed his concern that repealing the Non-Importation Act would allow slave labor to replace free labor in the city of Louisville. Despite the work of Speed and others in the state, a bill passed the Kentucky legislature that altered the Non-Importation Act of 1833 so as to render it ineffectual.<sup>13</sup>

In 1833, Speed left Frankfort at the end of the legislative term, happy to return home to his law practice and his family. By maintaining non-importation, his legislative work had indirectly advanced the emancipationist cause. Speed's first public agitation against slavery in Kentucky began well after his legislative career but coincided with the 1849 attack on non-importation when he assumed leadership of a Kentucky antislavery group, the Corresponding and Executive Committee on Emancipation. Along with Speed, other members of the group included Samuel S. Nicholas, a Louisville attorney and educator; William W. Worsley, a printer; Dr. Theodore Stout Bell, a physician and religious leader; William Richardson, a banker; and Bland Ballard. Ballard, a Louisville lawyer, along with James Speed and others, would later become director of the Louisville branch of the Freedman's Bank in 1865 and served as judge for the United States District Court of Kentucky in the 1860s and 1870s. At that time, he was the only justice to hear cases of African Americans against white Kentuckians.<sup>14</sup> Other members of the committee included William E. Glover, an iron manufacturer and former state legislator; William P. Boone, an attorney and later a member of the Union Central Committee and commander of the Louisville Home Guard; David L. Beatty, a Louisville businessman and politician (he would serve as Louisville's mayor from 1841 to 1844); Patrick Maxcy, a commission merchant and the president of the Mechanics' Bank; and Reuben Dawson, a riverboat captain as well as an inspector of engines and boilers for the federal government.<sup>15</sup> Based in Louisville, the organization's leaders came from different parts of Kentucky and had different backgrounds, but some group or interest tied most together and all were united in their belief in the good of emancipation for the Bluegrass state.

Like organizations such as Speed's were common but weak in Kentucky during the early- to mid-nineteenth century. Such groups lacked central organization, a factor causing most of them to fail. Lack of funding was another problem for all like organizations. Fear of a large free black population in the state led many white Kentuckians to view the rhetoric of northern abolitionists as extreme. This anxiety often caused moderate Kentuckians (who were willing to tolerate ideas on gradual emancipation) to shy away from any and all connection with the antislavery movement. Many historians of slavery and antislavery movements in Kentucky agree that Kentuckians, on the whole, saw slavery as an evil yet one that was necessary to the maintenance of the state's economy. In addition, many Kentuckians, including many emancipationists,



*Henry Pirtle, engraved by H. B. Hall and Sons. The Filson Historical Society*

viewed slavery as a state and local affair. The general antislavery sentiment of both the gradual emancipation movement and the abolition movement led many to associate the one with the other, leading to low membership throughout the first half of the nineteenth century for the gradual emancipationist organizations.<sup>16</sup>

James Speed and others founded the Corresponding and Executive Committee on Emancipation in February 1849 for the purpose of publishing pamphlets and essays related to the emancipation cause in order to rally support for the upcoming Kentucky Constitutional Convention. The Kentucky legislature and



Judge Bland Ballard. *The Filson Historical Society*

electorate had approved a new Constitutional convention in 1848 and its counties elected a slate of one hundred delegates to meet in Frankfort on October 1, 1849. The legislature called the convention to address a number of statewide exigencies, including consideration of making elective the chief offices rather than appointive; restructuring the judicial branch of the Kentucky government; discussion of the use of state credit for internal improvements. More than all other issues, the Convention's mandate was to consider the question of slavery and emancipation in Kentucky. The slavery issue certainly proved the focus of the Corresponding and Executive Committee on Emancipation, which produced several pamphlets on the topic during the months prior to the Convention, including *Slave Emancipation in Kentucky*, *An Address to the People of Kentucky on the Subject of Emancipation*, and *Address to the Non-Slaveholders of Kentucky*.<sup>17</sup> In the pamphlets, the committee proposed economic, social, and moral justifications for ending slavery in Kentucky. The writers appealed to the economic self-interest of white Kentuckians by presenting statistics indicating that slavery decreased the economic opportunities in the state, specifically depressing the wages paid to

white workers. They also stressed the humanity of the slaves and presented moral and religious reasons for ending slavery. All the pamphlets emphasized that slavery was the most important issue before the 1849 convention.<sup>18</sup>

**T**he pamphlet *Slave Emancipation in Kentucky* began with the committee distancing themselves from the abolitionists of the North; no matter their personal beliefs regarding slavery, these men knew that the majority of white residents of the state feared and abhorred immediate abolition. This pamphlet provided economic and political reasons to challenge the institution and, in the process, the writers hoped to attract large and small farmers and businessmen to their beliefs. The Executive and Corresponding

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Committee interpreted the strong proslavery stance of Kentucky's 1792 constitution as concern on the part of the framers that the state needed a large labor force made up of slaves for its prosperity and an increasing population. In hindsight, these emancipationists believed their current evidence proved wrong the framers' ideas about slavery. They stated that gradual emancipation would increase the prosperity of Kentucky, attributing the absence of slavery in the free states of Indiana and Ohio to the wealth of those states, their populations, industries, and mechanical and manufacturing skills having poured into them rather than to Kentucky.<sup>19</sup> The pamphlet *Slave Emancipation in Kentucky* also provided the traditional argument of Kentucky's unsuitable climate and agriculture for slavery, an argument used at the same time in the struggle regarding slavery in the Southwest. According to these men, Kentucky had become a "nursery for the propagation of slaves" rather than an area that benefited from slave agricultural labor. Along with the former arguments, the writers included the fact that the rest of the civilized world supported emancipation.<sup>20</sup> The final argument in this pamphlet was that emancipation would preserve the Union.

**T**he pamphlet *An Address to the People of Kentucky on the Subject of Emancipation* followed up on arguments made in the previous pamphlet by specifically citing national statistics that compared the productivity of free and slave states. The pamphlet concluded that though the natural resources of the slave states were equal or better, their prosperity was lower because of slavery. All three of the pamphlets stated that free labor in Kentucky would profit from emancipation, mentioning the "degradation of manual labor" that had occurred as a result of slavery. Planters could have invested their capital in more profitable ventures than slave laborers. Indeed, in *Slave Emancipation in Kentucky*, the writers had argued, "After elevating labor to its proper dignity, there will be abundant facility in substituting free for slave labor, at the same cost to the employers."<sup>21</sup>

In *Address to the Non Slaveholders of Kentucky*, the Executive Committee on Emancipation concentrated on presenting non-slaveholders with their position regarding slavery. The pamphlet promoted a "right of labor" ideology over the traditional "right of property" argument that the proponents of slavery espoused and, anticipating the controversial argument of Hinton Rowan Helper published a decade later, it described occasions where the existence of slavery lowered the wages and working conditions of free white workers. The writers stated that workers put forth the most effort when they reaped the benefits of their own labor. The committee declared, "We feel slavery to be an insurmountable obstacle to our progress. We desire to see labor, all labor, fairly paid until it becomes labor duly respected."<sup>22</sup>

These Kentucky emancipationists employed the same rhetoric that the Free Labor party used commonly in the northern states. This concept of "free labor"

was not just an attitude toward work, but also an affirmation of the antebellum Northern society as a dynamic, expanding, capitalistic society supposedly full of opportunity for the average laboring white man. The pamphlet's authors used these values to appeal to the pocketbooks of slaveholders and manufacturers in Kentucky in their bid to end slavery and promote the further development of compensated labor in Kentucky.<sup>23</sup>

A second section in the latter pamphlet addressed religious and moral reasons to end slavery in Kentucky. The writers argued that men, regardless of color, as having been created in God's image, that slavery was contrary to the laws of nature, and offered biblical injunctions against slavery drawn from both the Old and New Testaments. Clearly, they tried to prove that "slavery is injurious to all who are party to it, whether they be master or slaves."<sup>24</sup> And like the previous pamphlet, *Address to the Non Slaveholders in Kentucky* also described the harmful effect of slavery on the Union. The pamphleteers held that the best interests of Kentucky were, of course, whatever was in the best interest of the Union. Speed's own support for Kentucky's attachment to the Union, evident by his signature on the pamphlet *Slave Emancipation in Kentucky*, was a foreshadowing of his later work in Kentucky during the Civil War.<sup>25</sup>

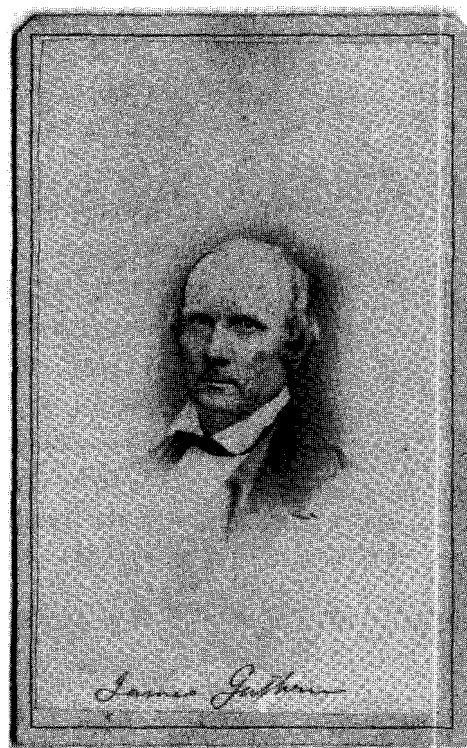
Of the three pamphlets, the first, *Slave Emancipation in Kentucky*, was the only one in which the writers actively suggested a method to rid Kentucky of slavery. The process of gradual emancipation, the authors agreed, offered a seamless solution for slavery in Kentucky. Their plan would not affect the rights of property or suddenly disturb master and slave relations. This specific gradual emancipation plan called for the release of all twenty-one-year-old female slaves born after a certain date; their children would be freed at birth. Because this proposal would take over fifty years to reach fruition, the slow pace would allow free white labor to replace black labor as the pillar of the economy. And, they argued, it would also not permit the growth of a large free black population in the state, one of the largest fears of Kentuckians, employing the dubious logic that free blacks would move to the North or take advantage of colonization in Africa rather than remain in the place in which they were once enslaved.<sup>26</sup>

Speed and the members of the Executive and Corresponding Committee on Emancipation were sure that in their near future slavery would end and they hoped that these "generous terms" would allow for a peaceful transition from slavery to free labor. Their focus on material progress, free labor, industry, and investment demonstrated that at least one of the members of the committee was in tune with the antislavery tactics of the northern Free Labor party. Free labor ideology affirmed that northern values and interests allowed men to reap the fruits of their labor, thus giving them personal value. It accredited the rapid economic development of the North to free, mobile labor and the

social philosophies that both spawned and sustained it.<sup>27</sup> In 1849, Speed wrote, “Labor is to the individual and society what salt and motion are said to be to the great deep—they prevent stagnation and putrescence. It is right, it is necessary that labor should be respected and encouraged. Slavery robs labor of its dignity and true worth. The proud spirit of a freeman will not brook being linked with a degraded class.” Speed’s view of labor coincided nearly exactly with the later Republican party’s platforms of 1856 and 1860.<sup>28</sup>

James Speed continued to rally the antislavery men in Kentucky for the upcoming constitutional convention. Speed held a position on the Louisville Emancipationist Executive Committee, a group formed in February 1849 that was probably associated with the Corresponding and Executive Committee. The Emancipationist Executive Committee issued a call for a statewide emancipation convention to be held in late April 1849. Speed himself headed the Louisville delegation.<sup>29</sup>

Representatives from all over the state of Kentucky joined the Louisville delegation at the General Emancipation Convention that commenced in Frankfort on April 25, 1849. The majority of those in attendance were slave owners; many ministers were also present. Henry Clay presided over the convention of 150 delegates. The general consensus of these antislavery Kentuckians was that gradual emancipation constituted the best solution for Kentucky. They agreed to seek the election of men opposed to further importation of slaves into Kentucky and who favored the right of the people of Kentucky to adopt emancipation when they so wished. James Speed also ran unsuccessfully on the Emancipationist ticket in the hotly-contested Louisville race for delegates to the 1850 Kentucky Constitutional Convention. Most delegates elected to the Constitutional Convention were proslavery, reflecting white Kentuckians’ general dislike of abolition and opposition to any group that seemed tainted by it. James Guthrie, a prominent Louisville attorney and former Democratic state representative and senator, defeated Speed and ultimately became president of the Kentucky Constitutional Convention.<sup>30</sup>



*James Guthrie. The Filson Historical Society*

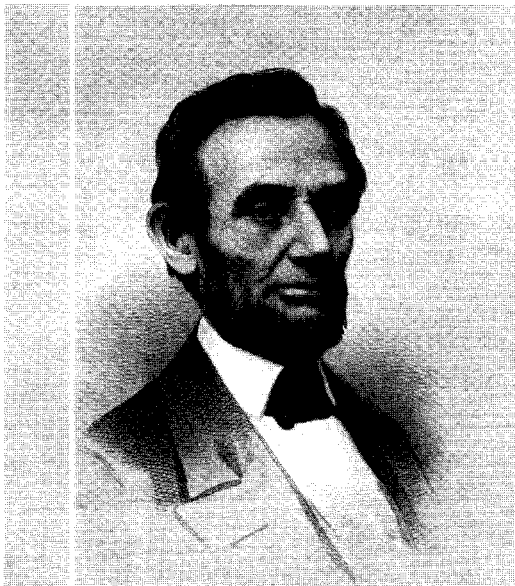
Delegates spent the first two weeks of the convention discussing slavery. Despite all the efforts of the antislavery element in Kentucky, the draft of the new state constitution did not change the laws of slavery in the state. Indeed, the new Kentucky constitution exceeded the old constitution by prohibiting freed slaves from residing in the state or entering the state to live. It also safeguarded slavery for the next eight years by disallowing any amendments to the constitution for that amount of time. The new constitution was a blow to many emancipationists throughout the state, convincing

many to drop the fight and others to leave the state altogether. The outcome had yet another effect on residents such as James Speed. He and others like him would eventually adopt a more radical agenda regarding slavery.<sup>31</sup>

The 1849 pamphlet *Slave Emancipation in Kentucky*, co-authored by James Speed, made the claim that Kentucky's best interests lay with the Union. This stance was very much still on Speed's mind some ten years later as the nation faced the outbreak of civil war. Despite his slaveholding heritage, James Speed was a staunch Unionist. Yet he was as yet no Republican. Abraham Lincoln's election to the presidency in 1860 and the ensuing outbreak of the Civil War placed Kentucky in a difficult position. Citizens were tied economically to the North and the Ohio River Valley region but also had many bonds to the South, such as a shared legacy of slavery and staple crop agriculture, its population's cultural origins, and the economic ties with Tennessee by way of the Louisville and Nashville Railroad. Kentuckians were split by the war, with many hoping to stay in the Union and many others wishing to secede with the southern states. With the outbreak of actual hostilities in April 1861, the Kentucky legislature opted for the odd position of armed neutrality, viewing the war as between the nation's geographical extremes. Under this veneer of neutrality, forces for unionism and secession gathered strength and numbers.

James Speed worked hard to promote Unionism in Kentucky. He participated in the "Union State Central Committee," worked on the planning and distribution of federal weapons to loyal unionists, and, along with his brother Joshua, was one of Lincoln's primary advisors regarding Kentucky affairs. In addition, Speed served briefly as brigadier general of the Louisville Home Guards, a volunteer force raised for the protection of the city. He held this position until he was elected to the Kentucky Senate in August 1861.<sup>32</sup>

Abraham Lincoln,  
engraved by H.W. Smith.  
*The Filson Historical*



In September, Kentucky's neutrality crumbled when Confederate forces invaded the southwestern area of the state and Union forces entered at Paducah. Kentucky did not immediately cling to the Union, shocked by the emancipation proclamation of Gen. John C. Frémont, commander of federal forces in Missouri. Frémont, in order to damage the rebel forces, pronounced Missouri to be under martial law then ordered the seizure of the slaves of Missouri rebels and declared them freed. Kentuckians, even Unionists who supported the Lincoln administration, were horrified by this action. Likely an alarmed Speed telegraphed Lincoln, "That

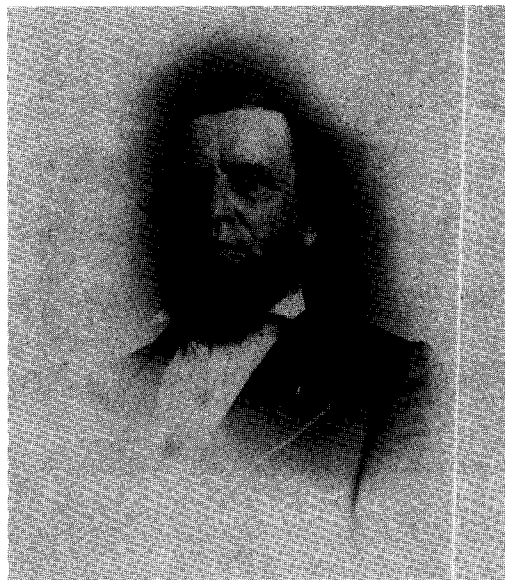
foolish proclamation of Frémont . . . will crush out every vestige of a union party in the state." Once Lincoln openly ordered the general to revise his statement, Kentuckians embraced the Union. The Kentucky legislature demanded that the Confederates leave the state and asked for the federal government's

assistance, thus cinching Kentucky's tenuous loyalty to the Union.<sup>33</sup>

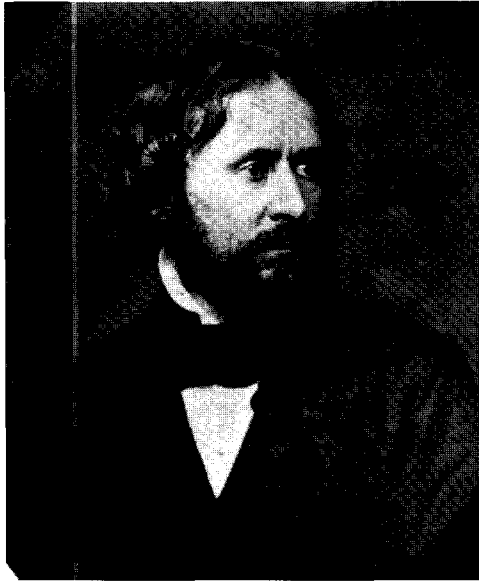
While in the Kentucky Senate, James Speed opposed Lincoln's preliminary Emancipation Proclamation, released in September 1862. Speed voted along with a majority in the Kentucky Senate in affirming that slavery was a state issue and a local institution. While condemning federally sponsored emancipation along with most other Kentucky Unionists, Speed advocated state-sponsored emancipation, even offering compensation for it. Additionally, he recommended the passage of a bill that would deprive all Confederate soldiers and sympathizers of their slaves. Speed believed that only states had the power to take this action and was the only member of the Kentucky Senate who spoke up for the issue of state sponsored emancipation, much less to put forward a bill in 1861 that "looks to the ultimate emancipation of the slaves."<sup>34</sup> While Speed's position on emancipation might seem inconsistent, among border slave state politicians, Speed's support of state (as opposed to federal) mandated emancipation was a moderate stance. Until 1864, Speed consistently maintained that slavery and emancipation were state issues that the federal government could not resolve.

Despite Speed's efforts, on January 1, 1863, President Lincoln signed the Emancipation Proclamation, abolishing slavery in the areas then under rebellion. The Emancipation Proclamation exempted loyal slave states like Kentucky and thus freed no slaves there. The act did raise the question of whether or not slaves could function as free people. As a result, in March 1863 the U.S. secretary of war, Edwin M. Stanton, established the American Freedman's Inquiry Commission. The commissioners entered slave states to obtain authentic information on the status of their black populations in order to authenticate their report. They carried out this task by observing conditions and questioning residents and refugees throughout the border states and those parts of the Confederacy in Union hands (namely, Washington D.C., eastern Virginia, and parts of coastal North Carolina, South Carolina, and Florida).<sup>35</sup> The report, submitted May 15, 1864, stated that freedpeople would need temporary aid and counsel until they became accustomed to free life. Moreover, they needed laws to secure their rights, property, and relief from a hostile white native population. Additionally, the federal government needed to guard them against the restoration of slavery in any form. The commissioners suggested that the government allow the freedmen to care for themselves after it had accomplished these goals. In essence, the American Freedman's Inquiry Commission laid out an early blueprint for what was to become the Freedmen's Bureau.<sup>36</sup>

Questioned by the commissioners in 1863, James Speed once again made



Joshua F. Speed. *The Filson Historical Society*



*John C. Frémont.  
An engraving from a  
photograph from a  
Memoir of the Life and  
Public Services of John  
Charles Frémont (1856) by  
John Bigelow. Cincinnati  
Museum Center, Cincinnati  
Historical Society Library*

public his views on slavery and African Americans. Speed's fourteen-page interview before the commission gave an intimate portrait of his personal views on slavery and emancipation.<sup>37</sup> Throughout the interview, Speed focused his answers on the ability of the slaves to care and provide for themselves. He was careful, however, to separate his experiences of slavery in Kentucky from the peculiar institution as it existed in the Lower South. He believed, from both story and experience, that Kentucky slaveholders were kinder and gentler and thus Kentucky slaves were better workers and more intelligent than those in the cotton states. Speed's testimony reinforced many of his earlier ideas regarding slavery. In the end however, he was unable to envision any sort of political or legal equality between white and black Americans, arguing that any improvement of black Kentuckians derived from their "contact with a higher civilization," meaning their white owners and neighbors.<sup>38</sup>

At the end of his interview, Speed commented upon the increased emancipation sentiment in the state. However, he dismissed any notion of an emancipation party owing to the certain rise of subversive organizations, adding that, "At present, we have the aid of some proslavery men for the Union cause." Speed personally believed that the best results would come from emancipation and independence for African Americans, but at this point he was not willing to lose Kentucky for the Union or raise issues within the Unionist Party of Kentucky by antagonizing the large proslavery contingent in Kentucky.<sup>39</sup>

In a January 1863 letter, Speed wrote:

Since my early manhood, I have ever believed that slavery is the greatest national sin upon which the sun looks in its diurnal course, and yet it is sustained by arguments so plausible and interests so powerful that it is not only difficult, but sometimes perilous to say or do anything towards emancipation. As the malady is a terrible one, the remedy must be difficult and slow.<sup>40</sup>

Speed maintained his concern about the influence of Confederate ideals and activists in Kentucky despite the state having sided with the Union in the Civil War. Although he never lost confidence in Lincoln and his administration although he disagreed with the president's policies on emancipation, many others in Kentucky did lose confidence because of Lincoln's Emancipation Proclamation despite the state's exemption from its mandates. Emancipation played a key role in the Union Party's split in Kentucky, noticeably evident during the gubernatorial race of 1863. When the party selected former Union general Thomas E. Bramlette for its candidate, those Kentuckians dissatisfied with this choice formed the Peace Democrats in June 1863.

The Peace Democrats opposed Lincoln and his administration and charged the remaining Unionists with supporting Lincoln, military despotism, and emancipation. Speed's faction, calling themselves Union Democrats, supported Bramlette and did not break its ties with the Lincoln administration although the members disliked military rule in Kentucky nearly as much as they detested the Emancipation Proclamation.<sup>41</sup>

**T**he Union Democratic Party soon broke apart over the issue of the United States Colored Troops (USCT) when the federal government began enlisting black troops in Kentucky in 1864. The Union Democratic Party severed ties with the Lincoln administration in 1864, supporting instead former general George B. McClellan in the presidential race. Once this division emerged, James Speed could no longer remain within the Union Democrats. Instead, he became involved in the arrangement of the "Border Slave State Emancipation Convention," held in Louisville in February 1864 at the urging of Missouri Radicals. The convention supported the USCT and a constitutional amendment to abolish slavery; it also encouraged the formation of an Unconditional Union Party in Kentucky. This faction supported the reelection of Lincoln and the abolition of slavery through constitutional amendment. One of its leading members, Speed served on the party's central committee, as well as on the ensuing state convention's committees on organization and on resolutions at the state convention. Held in late May 1864, the convention offered Speed the opportunity to deliver campaign addresses and he was chosen as a delegate to the national convention in Baltimore, Maryland, serving there on the platform committee.<sup>42</sup>

Speed's changing views on federal emancipation, possibly influencing his party switch, became evident in a small group of letters that he wrote to John Hardin Ward, a lieutenant colonel in the federal 27<sup>th</sup> Kentucky Volunteer Infantry Regiment. In late February and early March 1864, Speed discussed the legality of emancipating the slaves and the equality of the black race in general, specifically discussing regiments of African American soldiers in the U.S. service. For the first time, Speed wrote that the only legal way to abolish slavery was to do so by constitutional amendment. Speed now believed that the federal legislature had the ability and the right to change the laws protecting slavery. "The right of master is subordinate to the superior right of government," he argued. Ward, on the other hand, responded that if the Constitution was altered to allow freedom of slaves, it would destroy all legal protections of property implicit in that document.<sup>43</sup> Speed counseled Ward against resigning from the Union Army over the issue of the USCT. Speed believed it would be dishonorable



*President Lincoln's second cabinet. Speed is at bottom center. The Filson Historical Society*

and “unsoldierly” for Ward to resign over the use of black troops. Affirming “All lawyers and statesmen now admit that it is within the power and right of the [federal] government to enlist Negro soldiers,” Speed suggested that Ward obey his orders and the law rather than his personal prejudices. He believed that this would offer his own best path and that of his regiment, writing, “I know several officers who resigned because of the [emancipation] proclamation, and every one of them regret it.”<sup>44</sup>



*James Speed, circa 1870.  
The Filson Historical  
Society*

Despite his earlier opinion on the question of black freedom, Speed now adopted a curiously conflicted stance. “I am perfectly persuaded that slavery is against natural rights and ought to be abolished,” he wrote with egalitarian overtone. “I am also satisfied that loyal owners in loyal communities ought to be compensated.” Speed went on to argue that freedom for the slaves was more important than the issue of compensation for the owners. “Slavery is a state of degradation.” Speed continued, “It is with the law of slavery that I am at war.” Yet Speed had not in truth adopted an enlightened stance toward the racial equality of African and white Americans. “The law can make no man my equal that God and nature has made my inferior,” he avowed. “I am willing to give them (slaves) their natural rights, feeling perfectly certain that the superiority of the white race will still remain.” Speed did believe, however, that freed and enslaved

African Americans could and should be allowed to fight in the Union Army, and again voiced his support for the USCT.<sup>45</sup>

Despite James Speed’s enthusiasm, by 1864 few white Kentuckians evinced similarly sympathetic beliefs about the administration and the war. Lincoln, as well as the Unconditional Union Party, lost by a large majority in the November elections of 1864 in Kentucky. Speed wearily wrote to Lincoln in late November, “We are less now, but we are true.” Having thrown his former caution to the wind and no longer as concerned about alienating proslavery men in the state, Speed aligned himself more and more with the Radicals in the state and the nation as he supported both the abolition of slavery by the federal government and the natural rights of slaves.<sup>46</sup>

In December 1864, Abraham Lincoln asked James Speed to become his Attorney General after Edward Bates’s resignation. Speed accepted readily and began his duties in Washington in mid-December. While James Speed served in the national administration, he witnessed the close of the bloody days of the Civil War and the beginning of the nation’s reconstruction. He saw the passage of the Thirteenth Amendment that finally emancipated enslaved African Americans, a fervent hope of his. And he was at the bedside of his friend, Abraham Lincoln, to watch him die at the hands of an assassin on April 15,

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1865. For the first few months of the administration of the new president, Andrew Johnson, the two men politely tolerated one another. Political differences with President Johnson would drive James Speed out of the attorney general's office the following July.<sup>47</sup>

As attorney general, Speed's position on Reconstruction vacillated between firmness and leniency, alternately supporting and opposing Johnson's actions as president. Overall, Speed looked for a slower, more punishing Reconstruction while Johnson worked towards a more rapid reuniting of the sections. Speed was not a consistent Radical but he sided with these Republicans on several initiatives that came before the cabinet, including African American suffrage and legal rights. Despite Speed's opposition to some of Johnson's beliefs on southern Reconstruction, he supported the president on other administrative matters such as Indian affairs and foreign policy. Secretary of the Navy Gideon Welles wrote in his diary in late August 1865, "It is understood that the Cabinet unanimously support the policy of the President. No opposition has manifest[ed] itself that I am aware." Speed assisted Johnson in constructing and administering an amnesty program and initially praised Johnson's pardons for former Confederates. By early 1866, however, Speed drifted farther from supporting Johnson and closer to the Radicals' plan of Reconstruction.<sup>48</sup>

Speed's Radical inclinations derived largely from his support for civil rights for African Americans, especially the freedpeople of the South. Emancipation, an important step for the nation as he saw it, was in place and prominent northern legislators in Washington, such as Charles Sumner and Thaddeus Stevens, now intended to protect and raise the status of former slaves. Although Speed did not believe in the social equality of black and white Americans, he supported the Thirteenth Amendment and encouraged legislation to recognize those most basic rights of citizenship: suffrage and property ownership. As such, he supported the controversial Freedmen's Bureau Acts of 1865 and 1866 and the Civil Rights Act of 1866 (CRA), all of which measures President Johnson vetoed. As a result, and especially after Johnson removed his appointing powers in 1866, Speed began to consider resigning from his position as attorney general.<sup>49</sup>

Speed reached his threshold when President Johnson and his supporters attempted to form the National Union Party. This party was a political coalition of Republican and Democrat moderates and conservatives from both North and South, forged to promote sectional reconciliation and oppose black equality. Johnson's supporters demanded that all cabinet members attend the National Union Convention in August 1866 as a show of loyalty to the president and his plans for Reconstruction. Speed refused, as he wished to remain part of the "great Union Party" of the country, the Republican Party. After a frank discussion with President Johnson, on July 16, 1866, he tendered his official resignation, writing, "Sir: I herewith resign to you the office of Attorney-General

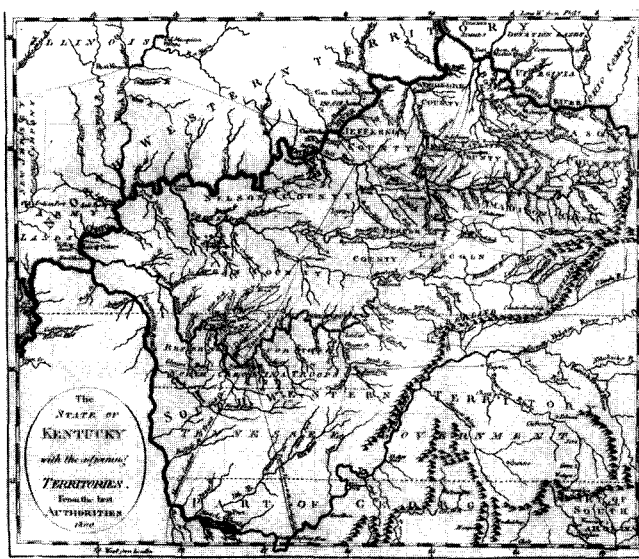
of the United States. Be good enough, sir, to accept my thanks for the kindness, consideration and confidence you have always shown me.”<sup>50</sup>

Three days earlier, on July 13, 1866, Attorney General Speed had written his final opinion for President Johnson. Providing legal counsel to the president following a series of brutal race riots in Memphis, Tennessee, that had occurred the previous May, Speed argued that it was not the duty of the military to interfere, as the riots were not against the federal government as a whole but targeted the African American population in Tennessee. He wrote disparagingly about the local Memphis officials who had done nothing to ameliorate the situation. Despite this assertion, Speed, reflecting a traditional understanding of federalism, stated that the military could not redress private grievances. He declared through his opinion that the injured party needed to appeal to their state’s courts for relief and a remedy.<sup>51</sup> Ironically, Speed’s final official opinion as attorney general actually withheld government assistance from the very freedpeople whom he wished deeply to help.<sup>52</sup>

Speed’s services as attorney general demonstrated his radicalized attitudes about African Americans’ rights and legislation while illustrating his inconsistent support of the agenda of the Radicals. Speed wanted a southern Reconstruction that would ensure equal justice, equal rights, and equal security to every human being within the jurisdiction of the United States. Upon leaving the administration, he was no longer willing to compromise on these ideals as he had while in Kentucky during the Civil War. His name and reputation were linked to men such as Stanton and Sumner. Speed also realized the burdens of being in national public office. He was ready to return home to Kentucky and engage in his former law practice and state politics. After his return to Kentucky, James Speed continued his assistance to the state’s newly-freed African Americans. He offered help to the struggling Freedmen’s Bureau in Kentucky as its temporary legal advisor, drafting a memorandum on the authority of the Bureau to enforce the CRA.<sup>53</sup> Maintaining support for the Freedmen’s Bureau bills, the Thirteenth Amendment, and the CRA, Speed also supported the Fourteenth Amendment, which offered citizenship to African Americans. During an 1868 legal challenge to the Amendment’s constitutionality, the case heard before the federal court at Louisville, Speed argued:

I stand here the advocate of justice and the Constitution. Where justice reigns under the Constitution, oppression is now unknown to any class or color. I would not have violated that equality in the social compact which the Constitution proclaims and seeks to guard. I would strike down the hand that would tear the now perfect bandage from the eyes of Justice. To-day the right of equal protection belongs to all, without distinction of race or color. It is now the office of the courts to enforce an equal law, and justice is too sacred to be confused by the illusions of color or awed by the frowns of prejudice.<sup>54</sup>

Speed's assumption of the Radical mantle made him a political lightning rod back in Kentucky. He continued public support of the party's ideals in 1870 as he campaigned unsuccessfully for a seat in the Kentucky House of Representatives. As a Republican candidate, Speed gave his full support to the right of African Americans to testify in court.<sup>55</sup> During this race Speed's Democrat opponent, Boyd Winchester, along with Henry Watterson, editor of the *Louisville Courier Journal*, accused Speed of having speculated in slaves in his earlier life, hoping to tarnish his newfound political affiliation and strong advocacy of the Radical agenda. Distressed by the "irresponsible" accusations against him, Speed was even more offended by charges that his father had been a slave trader. He admitted to inheriting slaves upon his father's death, claiming incorrectly that the law at that time in Kentucky did not allow him to free those slaves in the state, but offered only that he had "disposed" of the slaves. He admitted that he had indeed sold one slave, at her request, to the same man who owned her husband and that he had purchased a young ailing slave girl at an auction at her insistence, and that his wife cared for her until her death. Speed refused to comment further upon his slave ownership.<sup>56</sup> When Watterson reminded readers of Speed's support of emancipation without compensation (which Winchester used several times in speeches by charging that the federal government had robbed Kentucky by "stealing" its slaves), Speed responded with an unpopular reminder that Lincoln had offered compensated emancipation to the loyal border states, but its leaders had chosen not to accept the government's offer.<sup>57</sup>



The State of Kentucky with the adjoining Territories from the Best Authorities (1800). J. Low, New York, engraved by I. Scoles. Cincinnati Museum Center, Cincinnati Historical Society Library

By contrast, the *Louisville Daily Commercial* mounted a campaign on Speed's behalf. A former slave contributed what is perhaps the most interesting of the paper's supporting editorials. Identified only as "A Negro," the correspondent wrote that Speed was not responsible for his father's actions, that the son's inheritance of and provision for those slaves was a common practice, and that the writer and other former bondpeople of the community knew "full well that . . . he did not buy or sell human souls . . . . We know that it was the democratic party that made war to perpetuate human slavery, and that Mr. Speed opposed it; therefore we will vote for him."<sup>58</sup> The writer focused as well on Speed's support for emancipation, black suffrage, and testimony rights. He wrote that

The Negroes of Kentucky know Mr. Speed; they know him to be a . . . liberal-minded Christian gentleman; they know that in the darkest days under the old regime any poor, ragged, friendless negro could

go to him for counsel and advice, and it was given without money and without price; therefore we will vote for him. They know that in him they ever had a firm, unswerving friend, one who, though he did not stand on the housetops and proclaim that he had nursed from the same bosom that gave life to the little curly-headed negro, that he had played and slept with them, had still a kind word for the lowly and despised . . . we like our “old comrades of the cotton patch and coon hunt” and we intend to vote for Mr. Speed.<sup>59</sup>

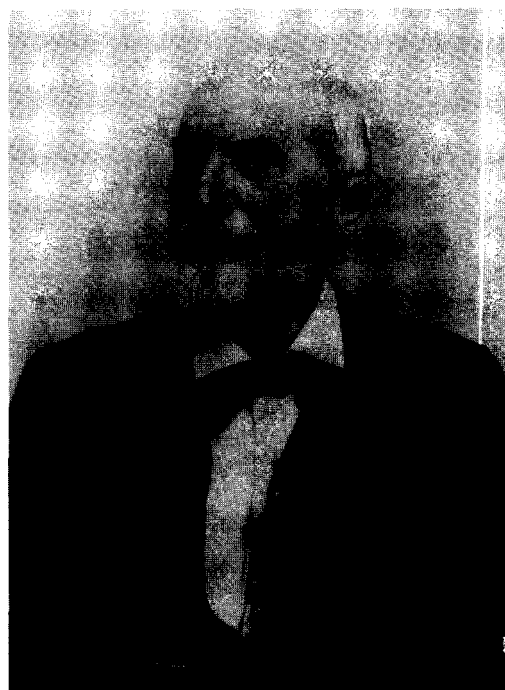
Speed’s final public effort on behalf of African Americans in his home community coincided with his failed bid for the Kentucky legislature. During the 1870 campaign, Speed became involved in an important yet little documented civil rights case. On June 2, 1870, in federal court in Louisville, a black resident, Early Smith, sued the City Railway Company for ten thousand dollars in damages after railway officials had expelled his wife and child from one of its streetcars because of their race. This action was the first civil rights suit against a Louisville streetcar company and Speed acted briefly as one of the Smiths’ attorneys. The *Louisville Daily Commercial* paper commented that this action would be a test case to settle the question about whether or not common carriers had the right to expel paying customers from their cars on the basis of race, sex, or previous condition.<sup>60</sup> Because the case involved African Americans testifying against whites, Judge Bland Ballard of the U.S. Circuit Court heard the case.<sup>61</sup> Ballard scheduled a hearing on October 28, 1870, and the defendant, the Louisville City Railway Company, filed its plea on that day. The Circuit Court Order Books of the Louisville Division, Western District, Kentucky, lists the next hearing for this trial as having occurred on March 20, 1871, when the defendant filed another plea. On March 23, Speed appeared in court with the Smiths. St. John Boyle, the attorney for the Louisville Railway Company, filed a plea challenging the jurisdiction of the court in such cases. Speed objected to this motion, and the trial remained before Judge Ballard. Boyle sought to withdraw his plea the next day and Speed spoke against this motion. At this point, Speed appears to have withdrawn from the case, which the Smiths ultimately won on October 16, 1872.<sup>62</sup> Likely the lawyers who ultimately carried the case forward brought Speed on board initially simply to attach his name and prestige to the case.

Responding to a complaint regarding the lack of compensation to Kentucky slave owners, James Speed claimed proudly, “I will bear the curses of the slaveholders for the sake of the songs of the men made free.”<sup>63</sup> Yet Speed’s career offers a less consistent picture. Indeed, the historian Helen L. Springer has offered three different manifestations of Speed: emancipationist, Unionist, and Radical Republican. These three aspects of Speed’s life, in reality, were intertwined with one another. Speed’s early education guided him to see slavery as a moral and economic wrong, leading to his antislavery views and

activism in the late 1840s. This activism, along with Speed's constitutional and legal understanding, fostered a connection to the North and the Union when regional hostilities broke out in 1861. Speed's continued interest in the preservation of the Union, along with his renewed and invigorated antislavery stance in 1864, led him to radicalism as he voiced approval for federal abolition of slavery. This radicalism grew during his time as the federal attorney general while many leading Radical Republicans, including Charles Sumner, surrounded and influenced him. Speed's moral and political motives for favoring the abolition of slavery steered him towards supporting political and civil rights for African Americans, a cause he continued to support after he returned to Kentucky.

Despite connections between the different political manifestations of James Speed, inconsistencies peppered his life. Such irregularities, which make Speed harder to understand and interpret, reflect broader incongruities that existed in antebellum and Civil War-era border states such as Kentucky. James Speed was at once a slave owner and a conservative antislavery activist; he maintained a firm position in favor of emancipation while allying with proslavery advocates in the fight for the preservation of the Union, and after having been a member of the Kentucky Union Democratic Party late in the war, he was within a few years the attorney general for a Republican administration. Believing in a firm reconstruction of the South, he supported the Thirteenth and Fourteenth Amendments, the Freedman's Bureau, the CRA, and civil rights for African Americans while never embracing the idea of racial equality.

Ironically, Speed's consistent devotion to the Union led him to these apparent inconsistencies. His support for several Democratic and Union parties in Kentucky that were not emancipationist parties derived largely from his unwillingness to jeopardize Kentucky's stance in the Union and caused him to suppress his antislavery views. Once Kentucky was safely in the Union, Speed renewed his fight against slavery with increased vigor. At the close of the Civil War, Speed's view of reconstruction included gradual amnesty and the restoration of the states, although he maintained an interest in and continued his efforts on behalf of the political and civil rights of African Americans. His example represents the dilemma faced by many emancipationists in Kentucky and other border states before, during, and after the Civil War. ♣



*James Speed at age 73. The Filson Historical Society*

1. James Speed, *James Speed, A Personality* (Louisville: John P. Morton and Co., 1914), 17.

2. Helen L. Springer, "The Political Career of James Speed" (M. A. thesis, University of Chicago, 1936), 2-3; Temple

- Bodley Memoirs, November 1903, The Filson Historical Society, Louisville, Kentucky [hereinafter cited as FHS], 58.
3. Thomas Speed, *Records and Memorials of the Speed Family* (Louisville: Courier-Journal Job Printing Co., 1892), 104-105; John H. Heywood, *Judge John Speed and His Family* (Louisville: John P. Morton and Co., 1894), 14-17; First and Second Federal Censuses, 1790 and 1800, Population Schedule, Kentucky.
  4. Despite a nearly lifelong fight to end slavery, James Speed was a slave owner at several points throughout his life. He received four slaves from his father's will in 1841, owned three from 1842-1845, and owned two in 1846. From then on, he only owned one slave in 1850 and one in 1862. Some Speed researchers have suggested that Speed owned the slaves only to free them, whether by taking them north to New York himself, as his testimony in the American Freedman's Inquiry suggests, or by being their "cover" as they escaped to freedom; he may have worked in conjunction with the Underground Railroad. Speed did liberate the slaves of his sister by taking them to New York as per her request. Despite speculation, no serious research or work has been done on this topic to substantiate it. Testimony of James Speed before the American Freedman's Inquiry Commission, Testimony taken in Kentucky, Tennessee, and Missouri, File No. 7, November and December 1863, letters received by the office of the Adjutant General (main series), 1861-1870, microfilm reel 201 1863, part of reproduced file 328 0 1863, Record Group 94, National Archives, National Archives and Records Service, General Service Administration, Washington, D.C., 1965: 23, 35 (hereinafter cited as American Freedman's Inquiry, microfilm copy, FHS).
  5. Gary Lee Williams, "James and Joshua Speed: Lincoln's Kentucky Friends" (Ph.D. diss., Duke University, 1972), 9; James Speed, autobiographical sketch, May 1867, Charles Lanman Collection, FHS.
  6. James Speed to John Speed, February 9, 1831, Speed Family Miscellaneous Papers, FHS.
  7. Agatha Marshall to Louis Marshall, November 10, 1833, Bullitt Family Papers - Oxmoor Collection, FHS; James Speed, autobiographical sketch, May 1867, Charles Lanman Collection, FHS.
  8. The position of Chancellor of Louisville was a special judicial post, not affiliated with any educational institution. Contract for law firm of Pirtle & Speed, July 7, 1845, Pirtle-Rogers Family Papers, FHS; James Speed, autobiographical sketch, May 1867, Charles Lanman Collection, FHS; H. Levin, ed., *Lawyers and Lawmakers of Kentucky* (Chicago: Lewis Publishing Company, 1897), 282-84.
  9. James Speed to "Mother", 30 January 1848, Speed Family Miscellaneous Papers, FHS.
  10. On the Non-Importation Act, see John E. Kleber, ed., *The Kentucky Encyclopedia* (Lexington, Ky.: The University Press of Kentucky, 1992), 826-27. Historian Harold D. Tallant has stressed the antebellum differences between Kentucky's view of slavery as a "necessary evil" and the Lower South's doctrine of slavery as a positive good. He documented the ambivalence of the "necessary evil" doctrine while supporting his conclusion that many of Kentucky's antislavery men, by their conservative actions and belief in the necessity of a system for the suppression of free Blacks, caused the emancipation movement in Kentucky to founder. Harold Donald Tallant, Jr., "The Slave Controversy in Kentucky, 1829-1859" (Ph.D. diss., Duke University, 1986), 5-11, 102-103, 160-72.
  11. Asa Earl Martin, *The Anti-Slavery Movement in Kentucky Prior to 1850* (Louisville: The Standard Printing Company, 1918), 88-97; Lowell Harrison, *The Antislavery Movement in Kentucky* (Lexington: University Press of Kentucky, 1978), 3, 4, 6, 20-21, 46.
  12. Historians present different reasons for the passage of this act in 1833. Historian Asa Earl Martin states that passage occurred when the legislature of Kentucky and the public opinion in Kentucky leaned toward the direct or indirect abolition of slavery, partially attributable to slavery's waxing importance to the cash crops of Kentucky, tobacco, and hemp. Similarly, historian Ivan E. McDougale believes that Kentuckians supported the Non-Importation Act of 1833 not because of emancipation sentiment, but because non-importation was constitutionally mandated for Kentucky and the people of the Commonwealth wanted to be true to the spirit of the Constitution. Historians Lowell Harrison and James Klotter have presented the most persuasive interpretation for the passage of the Non-Importation Act of 1833. In 1830, the black population of Kentucky reached its highest proportion in respect to the overall population, twenty-four percent. The rapid growth of the black population, coupled with the declining need for more slaves as Kentucky's frontier era ended, led Kentuckians to desire a limit on the amount of slaves imported into the state. Martin, *Anti-Slavery Movement in Kentucky*, 88-97; Ivan E. McDougale, "Slavery in Kentucky," *Journal of Negro History* 3 (July 1918): 257; Lowell Harrison and James Klotter, *A New History of Kentucky* (Lexington, Ky.: University Press of Kentucky, 1997), 98, 167; Cassius Marcellus Clay, "A Review of the Late Canvass, and Wickliffe's Speech on the Negro Law" (Lexington, Ky.: N. L. Fennell, 1840), 8.
  13. The repeal of the Non-Importation Act of 1833 was mentioned almost daily throughout the *Kentucky House Journal*, 1847-1848. *Journal of the House of Representatives of the Commonwealth of Kentucky, 1847-1848* (Frankfort: A. G. Hodges, State Printer, 1848), 333-36; Martin, *Anti-Slavery Movement in Kentucky*, 88-97; American Freedman's Inquiry, 29; Harrison, *Antislavery Movement in Kentucky*, 47, 56; Williams, "James and Joshua Speed," 43-54; Springer, "The Political Career of James Speed," 170-71.
  14. Paul R. Shipman, "The Late Judge Nicholas of Kentucky" *Lippincott's Magazine* 21 (January 1878): 77-87; J. Stoddard Johnson, ed., *Memorial History of Louisville From its First Settlement to the Year 1896* (Chicago: American Biography Publishing Co., 1896), v. 2, 61; Dr. T. S. Bell, "Memorial Address" in *Our New Home* (Louisville: Courier Journal Printers, 1876), 1-3; American Bible Revision Association, "Proceedings of the Sixth Annual Meeting of the Bible Revision Association, Louisville, Ky., 1858" (Louisville: Hull and Brothers, 1858), 3, 9-10; H. C. Weeden, *Weeden's History of the Colored People of Louisville* (Louisville, n.p., 1897), 17-18; Victor B. Howard, "Black Testimony Controversy in Kentucky, 1866-1872" *Journal of Negro History* 58 (April 1973): 140-65.
  15. Journal and Minutes, Louisville Turnpike Company Papers, FHS; John E. Kleber, et al, eds., *The Encyclopedia of Louisville* (Lexington: The University Press of Kentucky, 2001), 79; Johnson, *Memorial History of Louisville*, v. 2, 10, 165; Tallant, "Slave Controversy in Kentucky," 237-238n74-75, 261n31.
  16. For more information on antislaveryism in Kentucky, see Tallant, "Slavery Controversy in Kentucky;" Jeffrey Brooke Allen, "The Debate over Slavery and Race in Antebellum Kentucky, 1792-1850" (Ph.D. diss., Northwestern

- University, 1973); and Edward M. Post, "Kentucky Law Concerning Emancipation and Freedom of Slaves," *The Filson Club History Quarterly* 59 (July 1985): 344-67; Thomas D. Clark, *A History of Kentucky* (New York: Prentice Hall, Inc., 1937), 292-97; Harrison, *Antislavery Movement in Kentucky*, 38-45.
17. *Slave Emancipation in Kentucky* has no extant publication date; it was most likely published prior to the Kentucky Constitutional Convention during the same period as *An Address to the People of Kentucky*. S. S. Nicholas, et al, *Slave Emancipation in Kentucky* (Louisville: Corresponding and Executive Committee on Emancipation, [1849]), 1; Bland Ballard, *An Address to the People of Kentucky on the Subject of Emancipation* (Louisville, n.p., 1849), 1-8; *Address to the Non-Slaveholders of Kentucky* (Louisville, n.p., 1849), 1-16; George L. Willis, Sr., *Kentucky Constitutions and Constitutional Conventions: A Hundred and Fifty Years of State Politics and Organic Law Making, 1784-1933* (Frankfort, Ky.: The State Journal Co., Printer to the Commonwealth, 1930), 31-32, 38-39; *The Examiner*, January 13, March 3, 1849, quoted in Springer, "The Political Career of James Speed," 14-15.
18. Nicholas, *Slave Emancipation in Kentucky*, 1; Ballard, *Address to the People of Kentucky*, 1, 12; *Address to the Non-Slaveholders of Kentucky*, 1, 9.
19. Along with the economic justification for allowing slavery in the original constitution of Kentucky (e.g. the demand for laborers), historians have introduced other rationales. John D. Barnhart has stated that the framers of the Kentucky constitution fell into two groups: radicals (small farmers, frontiersmen and ministers against slavery, and conservatives) originally from Virginia's eastern counties and large slaveholding farmers and lawyers who formed a small aristocracy in favor of slavery. Barnhart's research showed that the conservative elements overpowered the radicals in the early constitutional conventions of the 1780s and 90s, causing slavery to remain intact as Kentucky separated from Virginia. Barnhart also noted that the aristocracy's fear and distrust of hasty public actions led them to include provisions preventing the emancipation of slaves without owner's consent and compensation. Historians Lowell Harrison and Ivan E. McDougale have contended rightly in separate works that by allowing Kentucky to break away from Virginia, the latter state's legislators stipulated that Kentucky had to remain a slave state. Harrison has continued the argument, positing that Kentucky's constitutional and legislative provisions for slavery reflected its Virginia heritage. John D. Barnhart, "Frontiersmen and Planters in the Formation of Kentucky," *Journal of Southern History* 7 (February 1941): 19-36; McDougale, "Slavery in Kentucky," 240; Harrison, *The Antislavery Movement in Kentucky*, 4.
20. Nicholas, *Slave Emancipation in Kentucky*, 3-4.
21. Ballard, *Address to the People of Kentucky*, 2-5, 8, 10; Nicholas, *Slave Emancipation in Kentucky*, 7.
22. *Address to Non-Slaveholders of Kentucky*, 2-5, 14-16. See also Hinton Rowan Helper, *The Impending Crisis of the South: How to Meet It* (New York: Burdick Brothers, 1857).
23. Eric Foner, *Free Soil, Free Labor, Free Men, The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1995), 9-13.
24. *Address to Non-Slaveholders of Kentucky*, 10-12, 13.
25. *Address to Non-Slaveholders of Kentucky*, 13.
26. Shortly after the publication of Nicholas's *Slave Emancipation in Kentucky*, Kentucky legislation prevented newly freed African Americans from remaining in Kentucky. Freedpersons who had been emancipated prior to this law often purchased their own families so that they could stay together within Kentucky. Certain members of the Speed family sent their freedpeople north to New York and Canada. Nicholas, *Slave Emancipation in Kentucky*, 5-6.
27. *Ibid.*, 3-7.
28. Speed's ideological connection with the Free Labor Party might also have assisted in his transition in becoming a Republican during his time as Attorney General later in his life. Speed, *James Speed*, 26-29.
29. *The Examiner*, February 17, 1849, quoted in Williams, "James and Joshua Speed," 56.
30. Harrison, *The Antislavery Movement in Kentucky*, 56-61; Kleber, ed., *Kentucky Encyclopedia*, 396.
31. Ellen Gwathmy to John C. Bullitt, March 9, 1849, uncatalogued "Oxmoor" Collection, FHS; James Speed, autobiographical sketch, May 1867, Charles Lanman Collection, FHS; Williams, "James and Joshua Speed," 54-61; Springer, "Political Career of James Speed," 14, 19; Clark, *History of Kentucky*, 299-301; Harrison, *Antislavery Movement in Kentucky*, 57-60.
32. *Charter of the City of Louisville, Kentucky, Approved March 24, 1851, with all the Amendments to Same Now in Force, and Acts of the Legislature Pertaining to the City of Louisville, to this date December 1, 1862* (Louisville: L. A. Civill, 1862), 196-98 (Ordinance number 240); Robert Emmett McDowell, *City of Conflict: Louisville in the Civil War 1861-1865* (Louisville: Louisville Civil War Round Table Publishers, 1962), 23; Williams, "James and Joshua Speed," 91, 95-96; Springer, "The Political Career of James Speed," 38, 40, 47; Kleber, ed., *Kentucky Encyclopedia*, 438; Charles Karraker Messmer, "City in Conflict: A History of Louisville, 1861-1865" (M.A. thesis, University of Kentucky, 1953), 86.
33. James Speed could have easily made the statement against Fremont's emancipation proclamation. Not only would the proclamation have injured his work in adhering Kentucky to the Union, Speed would have been personally against it as well. Speed supported state-sponsored, compensated emancipation in 1861 and would have been against such an arbitrary declaration by military personnel. Thomas Speed, *The Union Cause in Kentucky* (New York: G. P. Putnam's Sons, 1907), 163-65; Williams, "James and Joshua Speed," 96, 97, 99, 104-105; Springer, "The Political Career of James Speed," 40-46; Abraham Lincoln, *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler (New Brunswick, NJ: Rutgers University Press, 1955), v. 4, 506; Executive Journal of Beriah Magoffin, 1859-1861, July 12, 1861, Kentucky Department of Library and Archives, Frankfort, Ky. [hereinafter cited as KDLA]; Lovell H. Rousseau to Beriah Magoffin, July 7, 1861, Office of the Governor, Governor Beriah Magoffin, Military Correspondence from 1859-1862, KDLA.
34. W. Anthony to Judge Kincheloe, December 15, 1861, Kincheloe-Eskridge Family Papers, FHS; Williams, "James and Joshua Speed," 118-21; Springer, "The Political Career of James Speed," 58-61; Lewis Collins and Richard Collins, *History of Kentucky* (Covington, Ky.: Collins and Co., 1878), v. 1, 120-21.
35. *The War of the Rebellion: a Compilation of the Official Records of the Union and Confederate Armies Published*

- Under the Direction of the Secretary of War*, ser. III, v. 4 (Washington, D.C.: Government Printing Office, 1880-1901), 289-290 [hereinafter cited as OR].
36. OR, ser. III, v. IV, 289-290; David Herbert Donald, *Charles Sumner and the Rights of Man* (New York: Alfred A. Knopf, 1970), 174, 175, 177.
  37. American Freedmen's Inquiry, 23.
  38. *Ibid.*, 23-37.
  39. *Ibid.*, 36.
  40. James Speed to Mary L. Booth, January 10, 1863, James Speed Miscellaneous Papers, FHS.
  41. Williams, "James and Joshua Speed," 115-120, 123-24, 132-35.
  42. *Louisville National Union Press*, May 21, 26, 28, 1864; McDowell, *City of Conflict*, 163; Williams, "James and Joshua Speed," 132-38; Springer, "The Political Career of James Speed," 70. Springer claims that Speed was part of the Unconditional Union Party starting in February 1864.
  43. No evidence exists that would illuminate what specifically made James Speed extend his support to federal emancipation. He may have felt that the war powers of President Lincoln and the Union had expanded to such an extent that black emancipation was both legitimate and legal. By 1864, Kentucky was more or less inextricably tied to the Union; Speed would not have had to worry about emancipation severing the ties between the Union and his state. Regardless, in early 1864 James Speed placed his belief in federally sponsored emancipation, Abraham Lincoln, and the Unconditional Union Party.
  44. James Speed to Col. John H. Ward, February 27, 1864, Ward Family Miscellaneous Collection, FHS.
  45. James Speed to Col. John H. Ward, February 28, 1864, Speed Family Papers, FHS; James Speed to "Col.," March 28, 1864, Speed Family Papers, FHS.
  46. Williams, "James and Joshua Speed," 136-38.
  47. Edward Bates, *The Diary of Edward Bates, 1859-1866*, ed. Howard K. Beale (Washington: U.S. Government Printing Office, 1933), 482; James Speed to Mr. H. Stone, October 9, 1873, James Speed Miscellaneous Papers, FHS.
  48. Gideon Welles, *The Diary of Gideon Welles, Secretary of Navy Under Lincoln and Johnson*, ed. Howard K. Beale (New York: W. W. Norton & Co., 1960), v. 2, 364; Williams, "James and Joshua Speed," 181-85.
  49. Helen L. Springer, "James Speed, The Attorney General" *The Filson Club History Quarterly* 11 (July 1937): 179-81; Springer, "The Political Career of James Speed," 163-164; William E. Nelson, *The Fourteenth Amendment, From Political Principle to Judicial Doctrine* (Cambridge: Harvard University Press, 1988), viii-3, 8, 40-47, 146; Williams, "James and Joshua Speed," 186-93; Albert Castel, *The Presidency of Andrew Johnson* (Lawrence, Kan.: Regents Press of Kansas, 1979), 67. Springer pointed out that Speed's desire for black suffrage could have come from concern for his own political career and party in Kentucky. Speed would have known that African Americans' support was necessary for any Republican candidate to gain election in Kentucky.
  50. Castel, 29, 78-81; *New York Times*, July 17, 1866; James Speed, *James Speed, A Personality*, 93-95; Williams, "James and Joshua Speed," 197; Springer, "James Speed, The Attorney General," 185.
  51. J. Hubley Ashton, ed., *Official Opinions of the Attorneys General of the United States Advising the President & Heads of Departments in Relation to their Official Duties* (Washington: W. H. & O. H. Morrison, 1869), v. 11, 531-32.
  52. Williams, "James and Joshua Speed," 185-87.
  53. Howard, "Black Testimony Controversy in Kentucky," 152-53.
  54. Thomas Speed, *Records and Memorials of the Speed Family*, 110.
  55. *Louisville Daily Commercial*, October 19, 1870; *Louisville Courier Journal*, October 22, 1870.
  56. Until the adoption of the 1850 Kentucky Constitution, owners could emancipate slaves legally in Kentucky. Speed's father died in 1840, so Speed could have emancipated the four slaves he inherited. *Louisville Courier Journal*, October 31, 1870; *Louisville Daily Commercial*, October 27, 30, 1870.
  57. *Louisville Courier Journal*, October 22, 30-31, November 2-8, 1870.
  58. *Ibid.*, November 8, 1870.
  59. *Louisville Daily Commercial*, November 8, 1870.
  60. *Ibid.*, June 3, 1870. At this time, discrimination on streetcars was a major issue in the black community, leading to the first organized protests in Louisville. See Marjorie M. Norris, "An Early Instance of Nonviolence: The Louisville Demonstrations of 1870-1871," *Journal of Southern History* 32 (November 1966): 487-504, and George C. Wright, *Life Behind a Veil: Blacks in Louisville, Kentucky, 1865-1930* (Baton Rouge: Louisiana State University Press, 1985), 52-55.
  61. No circuit courts in Kentucky allowed black Kentuckians to testify against white residents, so litigants took cases directly to the United States Commissioner. The Freedman's Bureau worked with Judge Bland Ballard of the U.S. District Court of Kentucky, who agreed to prosecute under state law cases of outrages against African Americans when the state denied them testimony. In October 1866, federal officials applied the Civil Rights Act to Kentucky when its legislature refused to remove the restrictions on black testimony. This same Bland Ballard signed the *Slave Emancipation in Kentucky* pamphlet. Howard, "Black Testimony Controversy in Kentucky," 146, 147.
  62. *Early Smith, et al v. Louisville City Railway Co and George Stockton*, case no. 1754, Circuit Court Order Book E, Louisville Division, Western District, Kentucky, National Archives, Atlanta Regional Archives Branch, Record Group 21 (U.S. District Courts), Location B/20/16/A, #424-425, p. 308 (October 28, 1870), p. 413 (March 20, 1871), p. 421 (March 23, 1871), p. 425 (March 24, 1871) [hereinafter cited as *Smith v. Louisville City Railway Co.*]; *Smith v. Louisville City Railway Co.*, Book F, p. 164 (October 14, 1872), p. 169 (October 16, 1872); *Louisville Daily Commercial*, June 3, 1870, April 18, May 12, 1871, October 17, 1872; Pen Bogert, "A Woman of Courage, Mary Victoria Cunningham Smith" *The Griot* 1 (Summer 2000): 1, 3; Howard, "Black Testimony Controversy in Kentucky," 163-65.
  63. *Louisville Daily Commercial*, October 20, 1870.