

Lincoln Lore

The Bulletin of THE LINCOLN MUSEUM



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Lincoln Lore

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How Lincoln Returned to Washington, D.C. as a National Hero

Book Review

Christopher A. Thomas, *The Lincoln Memorial & American Life*
Princeton University Press, 2002

Reviewed by Herman Belz, Professor of History, University of Maryland

Asked to identify the location of the Lincoln Memorial, most Americans would unhesitatingly respond Washington, D.C. There are statues of Lincoln and places named in his honor throughout the country, but in this case majority opinion would be right. Lincoln's identification with American nationality is so deep and unequivocal that we consider it not only historically obvious but also naturally right that Abraham Lincoln should have a dominant presence in the nation's capital. In this fascinating and authoritative study, Christopher A. Thomas confirms our perception. He observes: "The Lincoln Memorial projects an air of inevitability and timelessness.... Who could imagine Washington without it?" [p.xvii]

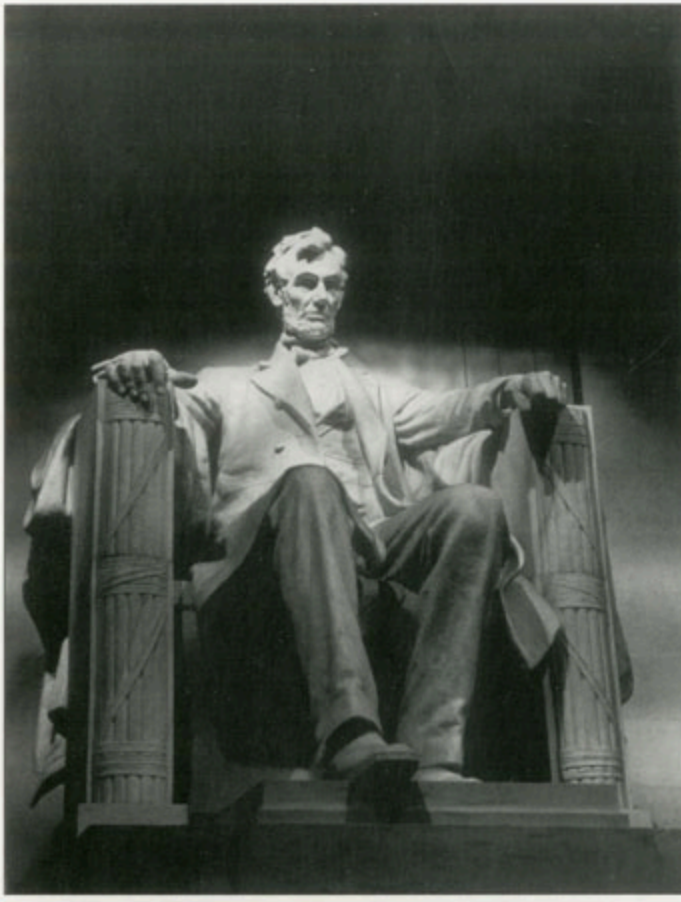
Intuition of the necessity of the memorial in the deepest sense reflects recognition of Lincoln's historical significance as an American statesman. In a less obvious yet far from trivial sense, the Lincoln Memorial also bears witness to the civic virtue and artistic excellence of its planners, designers, and builders. Christopher Thomas makes it clear that to a very great extent the aesthetic judgment and moral insight of architect Henry Bacon and sculptor Daniel Chester French, responding to the challenge of the immortal Lincoln, imbued the memorial with the qualities required for it to withstand the test of time.

Of course things that have a timeless and enduring nature also exist in a historical dimension. As a historical subject, Thomas begins the story of the Lincoln Memorial with the incorporation of the Lincoln Monument Association by Congress in 1867, for the commemoration of emancipation and universal liberty in America. Because of bitter Reconstruction political controversy, nothing came of this proposal to honor Lincoln. In the post-Civil War period two Lincoln statues were built in Washington, D.C. In 1871 Vinnie Ream Hoxie executed a standing Lincoln, holding the Emancipation Proclamation, for the U.S. Capitol Rotunda. The second work to honor Lincoln was Thomas Ball's *Emancipation Moment* (1876), a life-size statue of Lincoln and a kneeling, unshackled Negro slave (Lincoln Park).

By the turn of the twentieth century sectional tensions of the Civil War era had eased considerably as Americans turned to modernizing and reforming their society. A corollary of national reconciliation was the rise of Lincoln's stature in public opinion. In 1902 Congress, under Republican control, adopted legislation creating a Lincoln Memorial Commission. Political wrangling stalled the project until 1911 when, partly in response to public interest stimulated by the centennial of Lincoln's birth in 1909, Congress established a new Lincoln Memorial Commission. With the support of the McMillan Commission for the redesign of the federal city and the Commission of Fine Arts, the Lincoln Memorial Commission selected a remote parcel of land, referred to as Potomac Park, as the site of the Lincoln Memorial. Although powerful political interests opposed it, the decision confirmed the intent of the McMillan Commission, from its creation in 1902, to give the place of honor in the new design of Washington to a memorial to Lincoln.

Since the New Deal era to the present time, commemoration of Lincoln as a national statesman has transcended party lines. That was far from true during the two decades

On the Cover: "Liberty" Published by E. C. Bridgman. TLM #3882



Inside view Lincoln Memorial, Washington, D.C. TLM #3083

that were required to debate, design, and construct the Lincoln Memorial in the early twentieth century. In an ironic yet historically not unfamiliar manner, the return of Lincoln to Washington as a national statesman, like the decision to place him in the White House to resist disunion in 1861, was made possible by the partisan efforts of the Republican political establishment.

Although the historical circumstances were obviously different, controversy over the Lincoln Memorial from 1902 to 1922 implicated national character and identity in a manner analogous to the crisis of national identity during the Civil War. Fortunately, the waning of sectional hostility and Lincoln's growing approval in public opinion limited the scope of partisan controversy over the Lincoln Memorial.

With progressive reform energies running high nationwide, the question that arose concerned how the spirit of progressive Americanism should be expressed in commemoration of Lincoln. Two images presented themselves for consideration. The first was Lincoln as national hero and savior of the Union, a statesman of intellectual power, moral integrity, and prudential wisdom who was not only the greatest American but also a democratic leader of universal significance. A second image was that of Lincoln the Illinois frontiersman, a compassionate protector of the downtrodden whose egalitarian instincts marked his deep affinity with the masses.

The Republican party establishment endorsed the first of these two images. With the support of reform-minded President Theodore

Roosevelt, it inaugurated, through the 1902 plan of the McMillan Commission for redesign of the federal city, a drive to commemorate Lincoln as the defining symbol of American national unity. Conceived by redoubtable Commission members Charles Follen McKim, Daniel H. Burnham, Frederick Law Olmstead, Jr., and Augustus Saint-Gaudens, the plan called for the reconstruction of central Washington, in neoclassical architectural style, along an axis running from the Capitol to the Washington Monument to the Potomac River. There, on undeveloped land referred to as Potomac Park, a "great terminal memorial" to Lincoln would be built in the style of an ancient Greek temple. Daringly, the McMillan Plan envisioned a Memorial Bridge, connecting the District of Columbia to Virginia, as a symbol of the reunification of North and South.

Christopher A. Thomas recognizes the progressive spirit that informed the elitist vision of the McMillan Commission. "Its idealism," he observes, "represented an effort to confer on the central government, which had been the despair of reformers in the nineteenth century, a new dignity and sense of purpose." Progressive reformers believed a stronger federal government would be less vulnerable to corruption than state and city governments. In addition to connoting centralization, patriotism, and sectional reconciliation, nationalism was "a code word for reform"(p.20). Lincoln, who embodied these attributes and symbolized a strong presidency, "belonged at the fulcrum of the Progressive Republican plan for the capital"(21).

With insight and economy, Thomas summarizes the appeal of the McMillan Commission's image of Lincoln. It brought together "the history and symbolism of the Republican party; a vision of the American city of the future; a sense of the Union as a bond between Americans of all sections and countries of origin; a picture of the United States as a great — perhaps the greatest — modern nation, having a divine mission to spread prosperity and democracy to humanity"(24). Lincoln was idealized "as national patron, patriotic visionary, epitome of social and cultural harmony, and spokesman for the renewal of national government and the presidency"(24).

From strategic positions on the Lincoln Memorial Commission and the Fine Arts Commission, Republican elites put the Lincoln Memorial of the McMillan Plan on the fast track. Thomas credits President William Howard Taft, in particular, for overcoming political obstacles and executing the Plan with "the cool detachment and professional expertise Progressives loved"(36). Beyond political maneuvering, the wisest and most inspired move taken by the McMillan Commission was the selection of Henry Bacon as architect of the memorial.

A mid-career architect of solid reputation, Bacon came to the attention of the McMillan Commission through his association with the prestigious firm of McKim, Mead, and White. Known for the exquisite classicism of a small number of memorials and monuments designed for Republican patrons, Bacon expressed "moral values associated with early America, values lost and lamented in the wealth and turbulence of the early twentieth century"(47). Most distinctively, in Thomas's view, Bacon employed a "simple, snow-white classicism" that evoked the Republican party's claims to moral leadership of the nation and comported with the tone of



Outside Lincoln Memorial, Washington, D.C. TLM #1401

the McMillan Plan for Washington (49). Although having no major work to his credit, this fact, in the opinion of Daniel H. Burnham, made Bacon the right choice for the Lincoln Memorial because he “would put his very life into the task”(43).

Burnham’s judgment was sound. Bacon more than rose to the challenge in designing the august and stately shrine in which resides the colossal Lincoln executed by sculptor Daniel Chester French, whom Bacon personally selected for the project. Bacon succeeded in capturing the commemorative vision of Lincoln described by John Hay on first seeing the model of the McMillan Plan: “...the place of honor is on the main axis of the plan. Lincoln, of all Americans next to Washington, deserves the place of honor. He was of the immortals. You must not approach too close to the immortals. His monument must stand alone... isolated, distinguished, serene”(41).

Before Bacon was officially designated architect of the Lincoln Memorial, however, his Republican sponsors had to contend with a rival commemorative plan. Introduced into Congress by mid-western and western progressive Democrats and Republicans, this was a proposal to build a Lincoln memorial road from Washington to Gettysburg. According to Thomas, supporters of a commemorative road appealed to the American value of “automobility,” an

essential element of progressive modernization. A highway named for Lincoln would give the “man of the people” a fitting democratic memorial and provide a utilitarian public improvement. Not incidentally, it would also have commercial value for automobile manufacturers and real estate developers. Rep. William Borland (Dem.-Mo.) a highway advocate, summarized populist resentment that motivated opponents of the establishment Republican plan for a classical monument to Lincoln: “A \$2,000,000 pile of stones can neither increase his fame nor exemplify his character.... Shall we make [a memorial] that is as dead as his mortal clay, or as vital as his immortal spirit?”(52).

In 1912 the Lincoln highway lobby came close to derailing the classical Lincoln Memorial plan. At issue was control of Lincoln’s image in American public memory. On one side, Thomas summarizes, were populist progressives who would “commemorate Lincoln as Man of the People by an improvement whose memorial character lay in novelty and usefulness”(81). On the other side were establishment Republican progressives whose aim was “to honor the nation’s hero in abstract classical form” that would inspire the American people “to moral and patriotic virtue”(82). While Thomas convinces us of the superiority of Bacon’s design, there is nothing anticlimactic in his skillful narrative of the political resolution of the controversy. Combining executive energy

and sound aesthetic instincts, President Taft, as chairman of the Lincoln Memorial Commission, coordinated efforts to defeat the Lincoln highway bill in April 1912. Forty-seven years after the end of the Civil War, the way was clear for Lincoln to assume a monumental presence in Washington, D.C.

For lovers of Lincoln the special merit of this book lies in the architectural and iconographic analysis it provides of Bacon's unheralded dedication in developing the plan for the memorial. Bacon (and John Russell Pope, who was drawn into a de facto design competition with Bacon as a result of the political controversy), faced a complex iconographic problem. Lincoln was to be presented as national hero, savior of the Union, emancipator of slaves, and man of the people. Intended as a symbol of national unity, the memorial must be neither triumphant nor offensive to southern white Americans. Visually it was to be "horizontally regal and reposeful," striking a reflective, elegiac, and compassionate tone (56).

One can question the elements and aims of this program, as Thomas to some extent does in noting what he considers to be the under-representation of African Americans in the memorial. Nevertheless, Thomas's knowledgeable and penetrating analysis confirms the truth, beauty, and intelligibility of Bacon's design. Bacon sought above all to address "the heart and the brain of the citizen." He created a work of "aesthetic democracy" that would permit the memorial "to appeal in a direct, unmediated fashion to the 'ordinary' visitor"(63). The cynosure, in the large central hall, was a colossal statue of Lincoln, secluded and isolated to enhance its reverence and honor. In adjacent halls the words of Lincoln's Gettysburg Address and Second Inaugural would communicate his ideals as a teacher of democracy, national unity, and the perpetuity of American institutions.

Thomas's observations on the nature and character of the Lincoln Memorial will strike anyone familiar with it as brilliantly correct. Of the enthroned, magisterial figure who is the object of veneration, Thomas writes: "The most compelling image of Lincoln yet devised, French's statue presents him as both man and god. Brooding and severe but also compassionate, he is depicted as Father of the People, a living personality. This humanity accounts in large part for the statue's appeal. At the same time, gigantism removes him from earthly life, culminating his apotheosis as spiritual patron of the reunited nation"(123). Further, the monumental hall in which the visitor approaches Lincoln is "intended to sustain an air of universality and evenhanded neutrality, and implicitly to abstract high principles from the carnage of war and the conditions that caused it. The nation has evolved to a point, the memorial hall implies, where the suffering of history and the present, while still real, has taken on higher meaning within an enveloping destiny"(123).

These passages reflect a deeply sympathetic understanding of Lincoln's significance in American history. Standing in odd juxtaposition to them, however, is the concluding chapter, in which the author surveys the memorial in American culture. Borrowing the method and ideology of collective memory scholarship, Thomas considers the uses to which the memorial has been put as a "memory-site." He distinguishes between the unifying and con-

servative goals of the designers and builders of the memorial, and the "alternate and dissenting purpose" that characterizes contemporary public assemblies at the site. From the Marian Anderson concert in 1939 to the Martin Luther King march on Washington in 1963 and sundry protests in recent decades, including the inaugural concert of the Clinton administration in 1993, Thomas suggests that the nature of the memorial has been transformed. The King rally, he says, "built a new metaphorical shell for the Lincoln Memorial," as a result of which official events and protest rallies refer less to the original meaning of the memorial than to "the chain of associations centering on the march of 1963"(162).

Thomas exaggerates the importance of 1960s radicalism. More to the point, the strength of his architectural historical account far outweighs his dabbling in cultural memory studies. Thomas acknowledges that what he misleadingly refers to as "private visitation" — surely it is a form of public veneration as Bacon understood — continues as the main purpose of the memorial. To be sure, popular tourism may create less than ideal conditions for citizens' contemplative engagement with Lincoln's presence. Yet, as Thomas observes, "it is remarkable how hushed and apparently moved most visitors become as they enter the echoing, cavernous memorial... Many experience Lincoln's memorial as a 'threshold' or liminal space, where they move beyond the limits of everyday life and perception and contact higher, spiritual realities"(146).

Americans understand intuitively that in this most meaningful of national monuments, the genius of Henry Bacon and Daniel Chester French has inscribed the noble achievement of Abraham Lincoln's statesmanship for their intellectual and moral instruction.

Toward a More Perfect Union

By Frank J. Williams
Chief Justice of the Rhode Island Supreme Court

"We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are life, liberty and the Pursuit of Happiness." — Declaration of Independence

Introduction¹

When Thomas Jefferson penned the Declaration of Independence, he eloquently defined the promise of America—freedom and equality for all. But putting this simple and cherished concept into practice required the blood and sweat of countless individuals, black and white alike. Perhaps no other leader in American history fully appreciated the import of this real human struggle more than our sixteenth president.



Frank Williams, Chief Justice of The Supreme Court of Rhode Island and Co-Founder of The Lincoln Forum.

Even as a young lawyer in this country's heartland, Abraham Lincoln knew that the promise of the Declaration rang hollow for the millions of blacks held in slavery. As president-elect Lincoln boarded the inaugural train headed for Washington, this country stood on the precipice of self-destruction — mired in a national crisis of unparalleled proportions. Lincoln set out to heal a country split by a racial chasm so deep that the founding fathers' dream of one new nation was unraveling thread by thread.

With eloquent confidence Lincoln later explained his commitment to uniting a nation of people — blacks and whites together. His message of equality still reverberates through the ages:

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.²

Lincoln's legacy for this nation is one of true emancipation. The Emancipation Proclamation and the Thirteenth Amendment are the cornerstones of America's freedom foundation. With its ratification in December 1865, the Thirteenth Amendment freed approximately four million slaves who remained in bondage despite

the Emancipation Proclamation. At the same time, the legal landscape of every slave state was irrevocably and instantly altered.

By plowing his way through the politics and fears of prejudice, Lincoln left us an invaluable inheritance — one nation, indivisible, with liberty and justice for all. We in the twenty-first century bask in the inheritance obtained by a nation of history's heroes. Lincoln is not the least among them.

Lincoln could not have foreseen the need for additional alterations to the Constitution, in the form of the Fourteenth and Fifteenth Amendments. Nor could he have anticipated that amendments such as these would be passed by Congress and ratified by the states. But, undoubtedly, had Lincoln been alive, he would have used all legal, political, and military authority to ensure passage of the last two Civil War Amendments.

The Beginning: Lincoln Builds a Foundation for the Future

Almost from the beginning of his administration, Abraham Lincoln was pressured by abolitionists and radical Republicans to issue an Emancipation Proclamation. In principle as well as in strategic military terms, Lincoln approved of such a policy. His opposition to slavery came partly from a deep and personal repugnance. But always the consummate lawyer, Lincoln shaped his political policy with an eye toward his constitutional responsibility to preserve the Union. Early on in Lincoln's administration, the political and philosophical line he drew in the vast American republic allowed for the continuation of slavery in the South.

By allowing border slave states to maintain the status quo until he secured their loyalty to the Union, and by prohibiting the expansion of the institution into the territories, Lincoln believed that the ultimate result would be the extinction of slavery. He was shrewd in his strategic planning, and postponed taking any overt action against slavery until he believed he had wider support from the American public.

During his 1858 campaign debates with Senator Stephen A. Douglas, Lincoln did not denounce southerners for holding slaves because his only solution to the problem at that time — colonization, freeing slaves and keeping them in a lower social position — was unacceptable to them. But he made clear his position with a forceful attack against the spread of slavery in America.

Four years before their debates, Lincoln and Senator Stephen A. Douglas began disputing the issue of slavery. In Peoria, Illinois, the two men argued the pitfalls and benefits of Douglas's Kansas-Nebraska Act. In a two-hour-long response to the Senator's defense of his new law, Lincoln said:

*This declared indifference... for the spread of slavery, I cannot but hate. I hate it because of the monstrous injustice of slavery itself. I hate it because it deprives our republican example of its just influence in the world—enables the enemies of free institutions, to taunt us as hypocrites—causes the real friends of freedom to doubt our sincerity, and especially because it forces so many good men amongst ourselves into an open war with the very fundamental principles of civil liberty—criticizing the Declaration of Independence, and insisting that there is no right principle of action but self interest.*³

From the beginning of his presidency, Lincoln's paramount goal was to preserve the Union. Whether or not that mission included dismantling the institution of slavery depended upon what actions were necessary to save the Union. As he wrote even after drafting an Emancipation Proclamation:

*I would save the Union. I would save it in the shortest way under the Constitution. The sooner the national authority can be restored; the nearer the Union will be, "the Union as it was." If there be those who would not save the Union, unless they could at the same time save slavery, I do not agree with them. If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them. My paramount object in this struggle is to save the Union, and is not either to save or to destroy slavery.*⁴

But because Lincoln was so strongly committed to the democratic process and the Constitution as it then existed, he limited his early public criticisms to the expansion of slavery into the territories. Nevertheless, he became increasingly powerful in articulating his opinion. In the last debate with Senator Douglas, Lincoln likened the slavery debate to the timeless struggle between right and wrong:

*They are the two principles that have stood face to face from the beginning of time; and will ever continue to struggle. It is the same spirit that says, "you work, you toil, you earn bread, and I'll eat it." No matter in what shape it comes, whether from the mouth of a king who seeks to bestride the people of his nation and to live by the fruit of their labor, or from one race of men as an apology for enslaving another race, it is the same tyrannical principle.*⁵

As the war unfolded, Lincoln came to recognize the importance of publicly denouncing the entire institution of slavery — not just its expansion. Lincoln knew that the struggle of black men was very much the same struggle of every man — the struggle for peace and freedom.

By mid-summer 1862, Lincoln was openly discussing with several of his cabinet members his growing conviction that military law and political necessity now required the emancipation of slaves by executive order. On July 22, Lincoln read a rough draft of an Emancipation Proclamation to his cabinet. Artist Francis B. Carpenter called this cabinet meeting "a scene second only in historical importance and interest to that of the Declaration of Independence."⁶ Ultimately, Lincoln agreed with Secretary of State William H. Seward that he must wait for a military victory before making his proclamation public. "I do not want to issue a

document that the whole world... must necessarily see as inoperative, like the Pope's bull against the comet," Lincoln said.⁷

And so it was months later, as a glowing sun set over the blood-soaked fields of Antietam on September 22, 1862, that President Lincoln publicly issued his preliminary proclamation:

*And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States are, and henceforward shall be, free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.*⁸

Until this point in his presidency, Lincoln viewed the Civil War as a rebellion, a fight to preserve the Union without addressing the institution of slavery. But by issuing the Emancipation Proclamation, Lincoln threatened to crush the Confederacy by destroying slavery, the basis of its economy and society. This marked the first time in history when the war aims were changed in the middle of war.

Black Americans hailed Lincoln as a hero knowing that freedom was at last on the horizon. Word quickly spread that there was an



"Scene in House after passage of the 13th Amendment Resolution" from Harper's Weekly cover on February 18, 1865. TLM #4601

administration in Washington that finally supported and welcomed emancipation. Something as hopeful and dramatic as freedom cannot be contained. Thousands of slaves, even in territory still controlled by the Confederacy, fled to the protection of the Union lines.

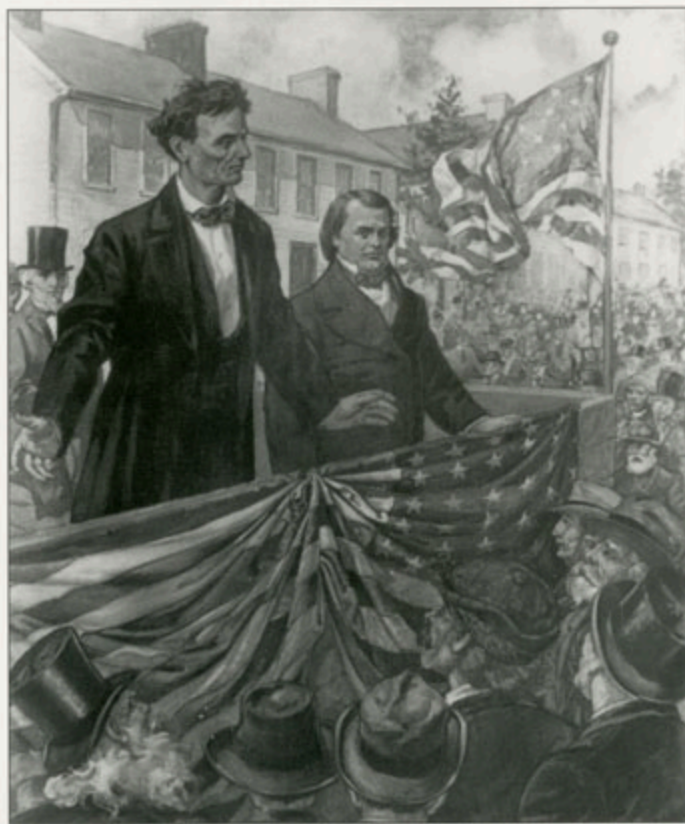
A former Alabama slave, Wallace Turnage, who in the nineteenth century wrote an account of his years in slavery, recalled that in 1864 he escaped in a rowboat on Mobile Bay in Virginia, where he was rescued in rough weather by a Union gunboat: "I now dread the gun and handcuffs and pistols no more. Nor the blowing [sic] of horns and running of hounds; nor the threats of death from the rebel's authority. I can now speak my opinion to men of all grades and colors, and no one to question my right to speak."⁹

With support of the administration, at least 200,000 slaves walked, ran, or rowed to freedom by February 1865. This perceived "mass exodus" caused some people great trepidation, as evidenced by Attorney General Edward Bates's reply to a letter from A.W. Bradford, Governor of Maryland:

I am honored with your letter of yesterday informing me that large numbers of slaves owned in Maryland, are daily making their way into the District of Columbia from the neighboring counties of your State, which you assure me is producing great anxiety and complaint in your community...

In these distempered times, I am not at all surprised to hear that Slaves in the border States are using all available means to escape into free territory.¹⁰

No matter how many slaves were actually freed under the auspices



Lincoln and Douglas TLM #175

of the Emancipation Proclamation, what proved essential to the war was that by issuing it, Lincoln made slave liberation a goal of the Union government. Not only did emancipation begin removing the useful labor of blacks from the home-front Confederacy, but it added their labor power to the Union cause. Even though Lincoln described emancipation as a "necessary war measure" he also showed political shrewdness by making it a goal of his administration.

Official liberty for all the slaves came in December 1865 with the ratification of the Thirteenth Amendment to the Constitution forever abolishing slavery. Lincoln vigorously supported the Thirteenth Amendment, insisting that it be a part of the National Union Party platform for the 1864 election. The effect of the Thirteenth Amendment validated Lincoln's dedication to freedom and his belief that our democracy is the "last best hope of earth."¹¹

As a member of the Whig party, Lincoln had begun his Presidency, like his compatriots, opposed to reckless "tampering" with the Constitution. However, Lincoln evolved over the course of his tenure in the White House — personally and politically. Lincoln's proposed Constitutional amendments present perhaps the clearest examples of this metamorphosis.

In his annual message to Congress in December 1862, Lincoln had recommended the adoption of three Constitutional Amendments directed at the abolition of slavery. The first offered federal funds to any existing slavery state that abolished slavery any time before January 1, 1900.¹² The second guaranteed "all slaves who shall have enjoyed actual freedom by the chances of the war, at any time before the end of the rebellion, shall be forever free; but all owners of such, who shall not have been disloyal, shall be compensated for them."¹³ And the third authorized Federal funds for colonization. Colonization was, in many ways, nothing more than a humane form of "ethnic cleansing" — an out-of-sight, out-of-mind solution. This was an idea Lincoln had earlier articulated. In his address to a committee of black leaders on August 14, 1862, Lincoln had urged black leaders to take advantage of \$600,000 in congressional appropriations to fund colonization in Africa and the Caribbean.¹⁴

The aspiration of men is to enjoy equality with the best when free, but on this broad continent, not a single man of your race is made the equal of a single man of ours. Go where you are treated the best.

You may believe you can live in Washington or elsewhere in the United States the remainder of your life [as easily], perhaps more so than you can in any foreign country, and hence you may come to the conclusion that you have nothing to do with the idea of going to a foreign country. This is (I speak in no unkind sense) an extremely selfish view of the case.¹⁵

Even earlier, while eulogizing his political hero Henry Clay, Lincoln had referenced colonization, arguing: "there is a moral fitness in the idea of returning to Africa her children whose ancestors have been torn away from her by the ruthless hand of fraud and violence."¹⁶ Lincoln took a long time before losing interest in this scheme. The 1862 annual message that included his proposed colonization amendment was given only one month before he issued the final Emancipation Proclamation.

In closing his address to Congress that December, Lincoln made these prophetic remarks:

Fellow-citizens, we cannot escape history. We of this Congress and this administration, will be remembered in spite of ourselves. No personal significance, or insignificance, can spare one or another of us. The fiery trial through which we pass, will light us down, in honor or dishonor, to the latest generation. We say we are for the Union. The world will not forget that we say this. We know how to save the Union. The world knows we do know how to save it. We — even we here — hold the power, and bear the responsibility. In giving freedom to the slave, we assure freedom to the free-honorable alike in what we give and what we preserve. We shall nobly save, or meanly lose, the last best, hope of earth.¹⁷

And indeed, despite one's position in a debate on Lincoln's methods, there can be no dispute that he accomplished what he set out to do. Lincoln saved the Union. By issuing the Emancipation Proclamation, he ran the first leg in a long relay toward full equality. Lincoln set the stage for later emendations to our national Constitution, namely the Fourteenth and Fifteenth Amendments.

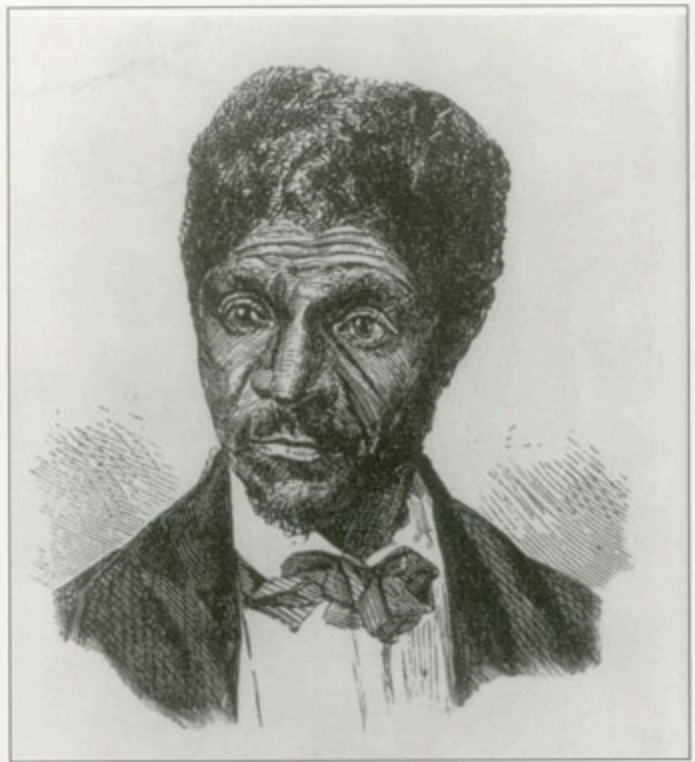
Lincoln, "Citizenship," and the Fourteenth Amendment

During the Civil War, every American's civil liberties were, at best, put on hold, and at worst, put one step backward. Without a doubt, Lincoln's unilateral suspension of the writ of habeas corpus is the most extreme example of freedom curtailed.¹⁸ It was with sobriety that Lincoln took such "extra-constitutional" actions, but these measures, whether strictly legal or not, were ventured upon under a popular necessity.¹⁹ Lincoln believed that once the Civil War was over, all abbreviated or suspended civil rights would be restored.

Perhaps no group more acutely realized an ambiguous position with regard to American citizenship than Civil War era blacks. During this time, the nation's legal leadership concurred that the United States Constitution did not confer the rights and privileges of citizenship to blacks. Congressional legislation prohibited blacks from handling the mail for fear that, among several reasons put forward by Postmaster General Gideon Granger in 1802, they would be able to mix with other people and learn that a person's rights are not determined by his color.²⁰ The State Department, with few exceptions, denied the passport applications of black Americans.

The Dred Scott decision conferred full legality to such restrictions. In *Scott v. Sandford*,²¹ the United States Supreme Court ruled that Congress could not prohibit the introduction of slavery into any territory of the United States. The Court also ruled that blacks could never be considered citizens of the United States regardless of the laws enacted by any individual state.

This decision drew swift, intense, and heated opposition. It was also vital to the platform of the Republican Party that nominated Abraham Lincoln for the Presidency in 1860.²² But even before his nomination, Lincoln forcefully attacked the Court's ruling. His first public statements denouncing the decision were made during a speech in Springfield, Illinois, on June 26, 1857. Lincoln was clear



Dred Scott TLM #1346

about his displeasure with the Court's conclusions and resolute in his conviction that they contradicted the basic tenants of the Declaration of Independence.

We think that the Dred Scott decision is erroneous. We know the court that made it, has often over-ruled its own decisions, and we shall do what we can to have it over-rule this... Judicial decisions are of greater or less authority as precedents, according to circumstances.²³

Chief Justice Taney, in his opinion in the Dred Scott case admits that the language of the Declaration of Independence is broad enough to include the whole human family, but he and Judge Douglas argue that the authors of that instrument did not intend to include negroes, by the fact that they did not at once, actually place them on an equality with the whites. Now this grave argument comes to just nothing at all by the other fact that they did not at one, or ever afterwards, actually place all white people on equality with one or another. And this is the staple argument of both the Chief Justice and the Senator, for doing this obvious violence to the plain, unmistakable language of the Declaration.²⁴

Other groups also spoke out against the decision. In 1861, the State Department granted a passport to Henry Highland Garnet, a black man. The passport explicitly stated that Garnet was a "citizen of the United States — language in direct contravention of Dred Scott."²⁵

The following year, when an American revenue cutter detained a vessel in the coast-wise trade because the captain was a man of color,²⁶ Lincoln's Secretary of the Treasury, Salmon P. Chase, addressed a formal inquiry regarding citizenship of black men to Attorney General Edward Bates. While he was in the process

of writing his opinion, Bates shared his views with Columbia University history professor, Francis Lieber, who was considered an expert in political science. On December 1, 1862, Bates wrote:

I am inclined to think that "Citizen," in our law, is a simple, common noun, that (by itself) always one and the same thing — neither more nor less. If you take away any one of his essential qualities, then he is no longer a citizen. If you add anything to citizenship (as age, sex, or property) to qualify for office, you do not, in any degree, alter the original noun, Citizenship, but super-add another and independent title, which can as well exist without citizenship, as citizenship can exist without it. My forthcoming opinion will assert that the child in the cradle, viewed as a citizen merely, is the equal of his father, in the Senate — and has equal rights.

Bates replied with a lengthy statement which repudiated the principles of the Dred Scott decision and affirmed that every free person born in the United States was, "at the moment of birth, prima facie a citizen."²⁷

The response to the Bates opinion came from all sides. Those in favor:

Every person born on the soil, man, woman, child, no matter what his color, is a citizen, and has a right to the protection of the Government. The right to vote has nothing [sic] to do with citizenship. In the barbarism which is promulgated by the Democratic press, it is pretended [sic] that none but voters are citizens, and that none but they have a right to the protection of all our laws and institutions at home and abroad.²⁸

I see Mr. Bates is preparing an elaborate opinion on Negro citizenship. The wonder is that one should question it when the government in its diplomacy and the judiciary in its decisions have affirmed it, and that too in concurrence with the universal sanction of every publicist. It was left to these later days to rest citizenship upon the fact of color and of the more or less curl of the hair rather than the essential facts of birth and allegiance.²⁹

And those opposed:

We do not wish to do either Mr. [Salmon P.] Chase, or Mr. Bates, any injustice, but the shape in which the opinion of the latter is placed before the public, its statement and want of statement, create grave doubts whether the actual administration of the affairs of the Treasury Department required in this case any opinion of the Attorney-General upon the subject of negro citizenship. There is no aspect of business in the whole affair. It looks like a fixed-up, political stalking horse. The opinion itself is creditable in point of intellect, although the argument is inartistic, and the style quite different from anything we have read before which has been attributed to Mr. Bates.³⁰

In 1865, the Supreme Court, that had banned black membership in American citizenry, admitted African American lawyer John S. Rock to argue before it.³¹ Francis Lieber wrote that there could no longer be "even the shadow of a doubt" that blacks were citizens entitled to protection by the federal government.³²

This nation's ultimate rejection of a second-class legal status for freedmen in reconstructing the South was foreshadowed by the quiet action of Lincoln's administration in recognizing the citizenship of freeborn blacks. The Fourteenth Amendment represented the definitive codification of Lincoln's efforts to neutralize skin color in the determination of citizenship.³³

The framing and ratification of the Constitution, the development of a national government and the adoption of the Bill of Rights all reflected a dominant concern with establishing one central government. Fearful of vesting one body with complete authority, the Founders structured the nation's government in such a way to minimize the risks of abuse. But the enslavement of blacks and the ensuing Civil War demonstrated that individual states could also endanger individual rights and liberties.

Against that backdrop, Congress proposed the Fourteenth Amendment in 1866. It was ratified in 1868. The Fourteenth Amendment established national citizenship as a basis for state citizenship. It also made the national government, rather than the states, the primary source and guardian of civil rights.

The opening sentence of the Fourteenth Amendment required the States to surrender much, if not all, of the considerable power they previously held with respect to the definitions of State citizenship: "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State where in they reside."³⁴ This language essentially accomplished what Lincoln so long advocated — nullification of the Dred Scott decision.

In the constitutional controversy preceding the Civil War, Lincoln had emphasized his philosophy that government was based on the ideas of liberty and equality as expressed in the Declaration of Independence. In a speech given on August 17, 1858, Lincoln had said:

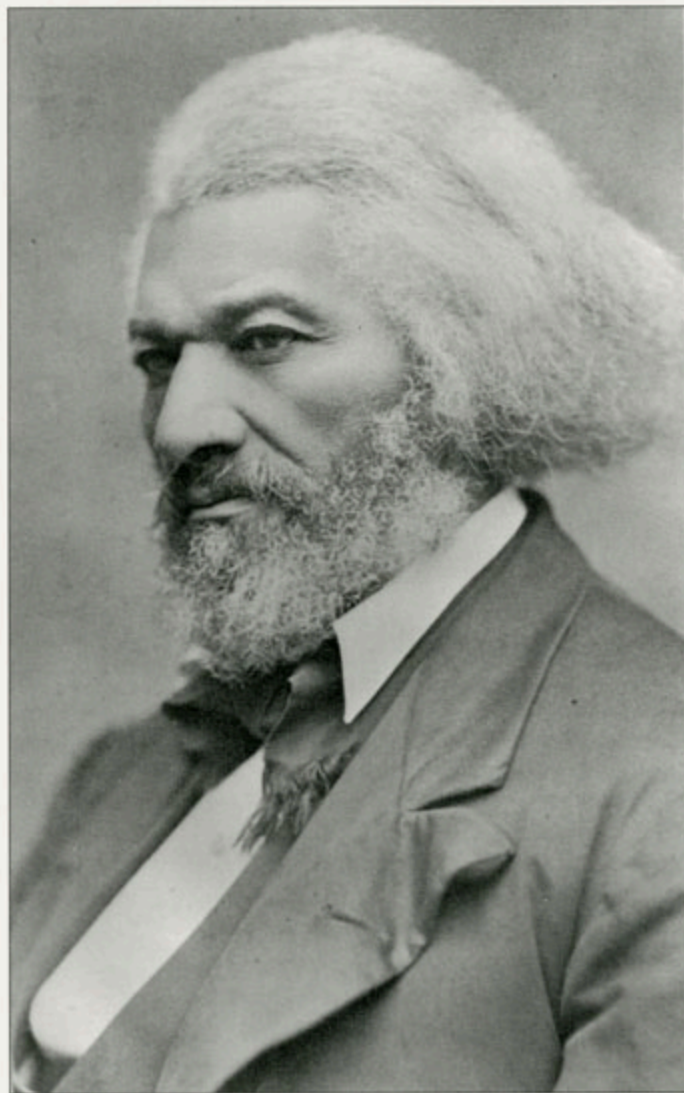
Now, if slavery had been a good thing, would the Fathers of the Republic have taken a step calculated to diminish its beneficent influences among themselves, and snatch the boon wholly from their posterity? These communities, by their representatives in old Independence Hall, said to the whole world of men: "We hold these truths to be self evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness"... They erected a beacon to guide their children and their children's children, and the countless myriads who should inhabit the earth in other ages. Wise statesmen as they were, they knew the tendency of prosperity to breed tyrants, and so they established these great self-evident truths, that when in the distant future some man, some faction, some interest, should set up the doctrine that none but rich men, or none but white men, were entitled to life, liberty and the pursuit of happiness, their posterity might look up again to the Declaration of Independence and take courage to renew the battle which their fathers began — so that truth, and justice, and mercy, and all the humane and Christian virtues might not be extinguished from the land; so that no man would hereafter dare to limit and circumscribe the great principles on which the temple of liberty was being built.³⁵

Lincoln's philosophy is reflected in the remaining language of the Amendment and in Article 14, section one:

*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*³⁶

African Americans were not passive in the effort to gain equality. When the Civil War broke out, former slave Frederick Douglass called on Lincoln to free the slaves and recruit them as soldiers in the federal army. He understood that making blacks a part of the military effort presented the quickest and surest way to ensure their liberation, along with the preservation of the Union. Douglass argued that by supporting an all white army, the Union was fighting with "their soft white hand, while they kept their black iron hand chained and helpless behind them."

Lincoln was, at first, resistant to Douglass's suggestion, fearing that such a policy would alienate a large part of the Union he was fighting so hard to preserve. But as the war dragged on, the



Frederick Douglass TLM #3892

nation grew restless. Lincoln took drastic measures in the name of national unification. The final Emancipation Proclamation called for the enlistment of black troops.

Douglass worked diligently to recruit black soldiers. When he grew frustrated at their mistreatment, he went to Washington to speak directly to the President. From that meeting, Douglass secured a promise that black soldiers would eventually be paid the same as white soldiers and that they would be promoted as deserved.³⁷ In response to Douglass's concern that black prisoners were being murdered or enslaved by Confederates, Lincoln assured him that an order had already been issued stipulating that "for every soldier killed in violation of the laws of war a rebel soldier shall be executed."³⁸

Douglass left the meeting with a great respect for the president. He said of the President, "in all my interviews with Mr. Lincoln I was impressed with his entire freedom from popular prejudice against the colored race."³⁹

The friendship endured until death separated the men, but the respect lingered. Of Lincoln's statesmanship Douglass said:

*Had he put the abolition of slavery before the salvation of the Union, he would have inevitably driven from him a powerful class of the American people and rendered resistance to rebellion impossible. Viewed from the genuine abolition ground, Mr. Lincoln seemed tardy, cold, dull, and indifferent; but measuring him by the sentiment of his country, a sentiment he was bound as a statesman to consult, he was swift, zealous, radical, and determined.*⁴⁰

In 1873, the United States Supreme Court issued a ruling in the *Slaughter-House* cases — the first case decided under the Fourteenth Amendment.⁴¹ At issue was whether the privileges and immunities of national citizenship include the Bill of Rights or other fundamental rights, thereby limiting the reach of a state's authority. In a 5-4 decision, the Court held that the privileges and immunities of national citizenship are narrow — limited to the right to assert claims or transact business with the government, have access to seaports, receive federal protection when a citizen was in a foreign country, peaceably assemble and petition for redress of grievances, file writs of habeas corpus, use navigable waters and exercise those rights secured by the Reconstruction Amendments. The Court ruled that fundamental rights enumerated in the Bill of Rights are not protected from state action. As a result, states retained much of the responsibility that they had traditionally exercised for the distribution and protection of fundamental rights and liberties.⁴²

While the *Slaughter-House* ruling remains good law, contemporary jurisprudence has incorporated most of the Bill of Rights through the Fourteenth Amendment's due process clause, so that these guarantees now apply to the states. Although the *Slaughter-House* Court did not permanently disable the Fourteenth Amendment by rendering such a narrow interpretation, it deferred the provision's impact well into the 20th century.⁴³

By the late 19th century, the Supreme Court began curbing state powers that it believed unreasonably interfered with an individu-



The Result of the Fifteenth Amendment published by Metcalf and Clark, 1870. TLM #3883

al's natural rights. In light of the *Slaughter-House* cases, the Court found its authority to make such decisions in the "due process clause" of the Fourteenth Amendment which prohibits states from "depriv[ing] any person of life, liberty, or property without due process of law."

Throughout the 1900s, the Court's view of the Fourteenth Amendment continued to evolve. It no longer viewed the due process clause as the basis for rights and liberties that limited state authority. Rather, it was a vehicle for making the Bill of Rights applicable to the States. As the Court made this historic shift, the main question became whether the Fourteenth Amendment incorporated all or only some of those fundamental guarantees. Thus began a decades-long, laborious process of determining rights on a case-by-case basis, deemed by the Founders to be inalienable, required and enforceable by the states through the Fourteenth Amendment.⁴⁴

But even as black letter law became more established, this process occurred long before social practices reflected the change. For African Americans, equal under law did not translate into equal in fact.

During his Presidency, Lincoln argued that "equality, in society, alike beats inequality, whether the lat[t]er be of the British aristocratic sort, or of the domestic slavery sort."⁴⁵ While establishment of the Thirteenth and Fourteenth Amendments brought the nation closer to fulfilling Lincoln's vision for society, the legal road remained pitted with potholes. Black Americans were still refused the right to vote.

Black Suffrage and the Fifteenth Amendment

By granting blacks suffrage rights, the Fifteenth Amendment, ratified in 1870, represented the final component in a national effort to craft a colorblind Constitution. It states: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous

condition of servitude."⁴⁶

Even with its ratification, black suffrage remained a privilege rather than a right, subject to regulation by individual states. But over time, the federal government redefined freedom to embody civil and political equality regardless of race.⁴⁷

The Fifteenth Amendment contains guarantees that provide grounds for constitutional challenge if violated by the states. The final section of this Amendment, as is true for the Thirteenth and Fourteenth Amendments, grants Congress the "power to enforce this article by appropriate legislation."⁴⁸ Under this enabling provision, the federal government assumed from the states protection of individual civil rights.

As with all other issues regarding black rights, the matter of suffrage remained contentious during Lincoln's Presidency. The nation as a whole, and Radical Republicans in particular, paid special attention to Lincoln's position on this topic.⁴⁹ In a private correspondence drafted to Michael Hahn, the first governor of liberated Louisiana, Lincoln became the first American President to advocate for limited black voting rights:

Now you are about to have a Convention which, among other things, will probably define the elective franchise. I barely suggest for your private consideration, whether some of the colored people may not be let in — as, for instance, the very intelligent, and especially those who have fought gallantly in our ranks. They would probably help, in some trying time to come, to keep the jewel of liberty within the family of freedom.⁵⁰

The Hahn letter is more than an isolated articulation of Lincoln's efforts to promote black suffrage. In his last speech given April 11, 1865, the President said:

It is also unsatisfactory to some that the elective franchise is not given to the colored man. I would myself prefer that it were now conferred on the very intelligent, and on those who serve our cause as soldiers.

In the same speech, Lincoln praised the state's fledgling government for "giving the benefit of public schools equally to black and white, and empowering the Legislature to confer the elective franchise upon the colored man."⁵¹ He went on:

We encourage the hearts, and nerve the arms of the twelve thousand [Louisiana voters] to adhere to their work, and argue for it, and proselyte for it, and fight for it, and feed it, and grow it, and ripen it to a complete success. The colored man too, in seeing all united for him, is inspired with vigilance, and energy, and daring, to the same end. Grant that he desires the elective franchise, will he not attain it sooner by saving the already advanced steps toward it, than by running backward over them?⁵²

Against the backdrop of the Fifteenth Amendment, ratified five years later, Lincoln's advice to Louisiana and its new governor is an eerily prescient and profound statement of "tolerance."

Though his early death slowed the momentum for granting blacks the ability to vote during the nation's Reconstruction, Lincoln's message echoed from the grave as the country struggled to realize complete equality.

Conclusion

*"What I do about slavery... because I believe it helps to save the Union; and what I forbear, I forbear because I do not believe it would help to save the Union."*⁵³

Abraham Lincoln's legislative, military and rhetorical skills formed a seamless fabric of democratic leadership that protected and preserved a nation during crisis. While he is often considered a controversial figure in black American history, sometimes lauded for performing one of the greatest acts in American history — the Emancipation Proclamation — and sometimes characterized as a racist who was simply spurred on by more principled radical abolitionists, Abraham Lincoln remains a fitting hero to all who fight for equality.

By issuing the Emancipation Proclamation, Lincoln illustrated both a remarkable flexibility in the development of war strategy and an unflagging commitment to his presidential mission. It is perhaps this one document that marked forever his legacy of greatness and opened for posterity the door to substantial reconfiguration of national policy on equal rights.

Statesmanship may have required delay, negotiations, and bargaining, but at the end of the day a nation of black men, women and children knew because of Abraham Lincoln what it was to taste freedom. For the first time, southern blacks could identify with the phrase "all men are created equal."

When Lincoln died his Secretary of War Edwin M. Stanton said, "Now he belongs to the ages."⁵⁴ The debate about the significance, prudence, and import of Lincoln's presidential actions is seemingly inexhaustible. Before us, and after us, generations have and will continue to ponder the man who, with extraordinary fortitude, set the American Civil Rights movement in motion. Lincoln's death marked the end of a beginning. But at the same time, his living legacy heralded the beginning of a new America.

Endnotes

- ¹ I would like to acknowledge and thank Andrea Krupp, Esq. for her invaluable contributions to this article. I would also like to extend my thanks to Sara Gabbard, editor of *Lincoln Lore* for her comments, Harold Holzer for his suggestions and Michael Vorenberg for allowing me access to his notes.
- ² Roy P. Basler, ed., *The Collected Works of Lincoln*, (New Brunswick, N.J.: Rutgers University Press, 1953), 8:333 (hereinafter cited as *Collected Works*) (Lincoln's Second Inaugural Address, March 4, 1865).
- ³ *Collected Works*, 2:255 (Speech at Peoria, Illinois, October 16, 1854).
- ⁴ *Collected Works*, 5:388–89 (Letter to Horace Greeley, August 22, 1862)
- ⁵ *Collected Works*, 3:315 (Seventh and last debate with Stephen Douglas at Alton, Illinois, October 15, 1858).
- ⁶ Mario M. Cuomo & Harold Holzer, eds., *Lincoln on Democracy: His Own Words, with Essays by America's Foremost Civil War Historians* (Fordham University Press, 2004), 249.
- ⁷ *Collected Works*, 5:420 (Reply to Emancipation Memorial Presented by Chicago Christians of All Denominations, September 13, 1862).
- ⁸ *Collected Works*, 5:433 (Preliminary Emancipation Proclamation, September 22, 1862).
- ⁹ Randy Kennedy, "I Shall Never Forget the Weeping," in "Slave Journals," "Ideas and Trends" section, *New York Times*, June 20, 2004, 14.
- ¹⁰ Edward D. Bates to A.W. Bradford, May 10, 1862, Nevins MSS, Huntington Library.
- ¹¹ *Collected Works* 5:537 (Annual Message to Congress, December 1, 1862).
- ¹² *Collected Works*, 5:529–37.
- ¹³ *Ibid.*, 5:529–37.
- ¹⁴ *Ibid.*, 5:529–37.
- ¹⁵ *Ibid.*, 5:370–372 (Address on Colonization to a Deputation of Negroes, August 14, 1862).
- ¹⁶ *Ibid.*, 2:132.
- ¹⁷ *Ibid.*, 5:537.
- ¹⁸ *Ex Parte Merryman*, 17 F.Cas. 144 (C.C.Md. 1861).
- ¹⁹ *Collected Works*, 4:344 (Letter to Lieutenant General Winfield Scott, April 25, 1861).
- ²⁰ James Dunlop, *Digest of the General Laws of the United States With References To The Acts Repealed, Supplied, Or Modified; and Notes Of The Decisions And Dicta Of The Supreme Court Of the Union Upon Their Construction* (Philadelphia: J.B. Lippincott and Co. 1856), 711.
- ²¹ *Dred Scott v. Sandford*, 60 U.S. 393 (1857).
- ²² George Anastaplo, *The Amendments to the Constitution: A Commentary*, (Baltimore: Johns Hopkins University Press, 1995), 173–174.
- ²³ *Collected Works*, 2:401 (Speech in Springfield, Illinois, June 26, 1857).
- ²⁴ *Ibid.*, 2:405.
- ²⁵ Frank J. Williams, "Institutions are not made, they grow: Attorney General Bates and Attorney President Lincoln", in *Lincoln Lore*, Number 1876 (Spring 2004)
- ²⁶ Under *Dred Scott*, blacks were not citizens and therefore not eligible to command ships under the American flag.

- ²⁷Attorney General Opinions, X, 382–413.
- ²⁸Cincinnati *Daily Gazette*, December 30, 1862.
- ²⁹John Appleton to William P. Fessenden, December 11, 1862. William Pitt Fessenden papers, Western Reserve Historical Society.
- ³⁰New York *Evening Express*, January 2, 1863.
- ³¹Eric Foner, *The Story of American Freedom* (New York: W.W. Norton & Company, 1998), 97.
- ³²*Ibid.*, 97.
- ³³The Fourteenth Amendment was ratified on July 9, 1868, three years after Lincoln's death.
- ³⁴U.S. Constitution, Article 14, section 1.
- ³⁵Mario M. Cuomo & Harold Holzer, ed., *Lincoln on Democracy*, 122–23 (From a speech at Lewistown, Illinois (August 17, 1858).
- ³⁶*Ibid.*
- ³⁷William K. Klingaman, *Abraham Lincoln and the Road To Emancipation, 1861–1865* (New York: Penguin Group, 2001), 266.
- ³⁸*Collected Works*, 6:357 (Order of Retaliation, July 30, 1863).
- ³⁹Allen Thorndike Rice, ed., *Reminiscences of Abraham Lincoln by Distinguished Men of His Times* (New York: North American Review, 1888), 193.
- ⁴⁰*Ibid.*, 121 citing Philip S. Foner, ed., *The Life and Writings of Frederick Douglass* (New York: International Publishers, 1955) 4:312.
- ⁴¹*Slaughter-House Cases*, 83 U.S. 36 (1873).
- ⁴²Donald E. Lively, *Landmark Supreme Court Cases, A Reference Guide* (Connecticut: Greenwood Press, 1999) 12–15.
- ⁴³*Ibid.*, 15. By the late nineteenth century, the Supreme Court began curbing state powers that it believed unreasonably interfered with an individual's natural rights. In light of the *Slaughter-House Cases*, the Court found its authority to make such decisions in the "due process clause" of the Fourteenth Amendment which prohibits states from "depriv[ing] any person of life, liberty, or property without due process of law."
- ⁴⁴*Palko v. Connecticut* 302 U.S. 319 (1937) (Fifth Amendment right against double jeopardy does not apply to states.); *Benton v. Maryland* 392 U.S. 925 (1968) (Double jeopardy provision is "fundamental to the American scheme of justice" and does apply to states.); *Adamson v. California* 332 U.S. 46 (1947) (Some but not all provisions of the Bill of Rights are incorporated through the Fourteenth Amendment and the right against self incrimination is not one of them.); *Malloy v. Hogan*, 378 U.S.1(1964) (The right against self incrimination should be incorporated through the Fourteenth Amendment).
- ⁴⁵Mario M. Cuomo & Harold Holzer, ed., *Lincoln on Democracy*, 159.
- ⁴⁶U.S. Constitution, Amendment XV, section 1.
- ⁴⁷Foner, *The Story of American Freedom*, 106.
- ⁴⁸U.S. Constitution, Amendment XV, section 2.
- ⁴⁹During the Civil War, the more zealously antislavery Republicans, who wanted the administration to move quickly to abolish slavery came to be regarded as radicals. Mark E. Neely, Jr., *The Abraham Lincoln Encyclopedia* (New York: McGraw-Hill Book Company 1982), 251.
- ⁵⁰Merrill D. Peterson, *Lincoln in American Memory* (Oxford University Press, 1994), 44.
- ⁵¹*Ibid.*, 467.
- ⁵²*Collected Works*, 8: 399–405 (Lincoln's Last Public Address, April 11, 1865).
- ⁵³*Ibid.*, 5:388–89 (Abraham Lincoln's letter to Horace Greeley, August 22, 1862).
- ⁵⁴George S. Bryan, *The Great American Myth* (New York: Carnick & Evans, 1940), 189.

At the Cannon's Mouth: The Founders and Slavery

By Sara Gabbard, Editor

It is pointless to argue what the American Founders could have or should have done in respect to slavery. Perhaps John Quincy Adams was correct when he had written after the failure of the Constitution to deal with the question, "It is the odious nature of the question that it can be settled only at the cannon's mouth." (McPherson, p. 28) Although several important compromises were accepted (e.g. large state/small state representation) when the Constitution was drafted, the only real recognition of the need to "do something about slavery" was the prohibition of the slave trade twenty years after ratification. In that respect, Donald Wright

(p. 150) estimates that approximately 100,000 more slaves were imported between 1790 and 1808.

Four of the first five Presidents of the United States were from Virginia and would have had more than a passing interest in the "peculiar institution" which pervaded their state. Some would argue that the leadership of Virginians was so critical to the establishment of a new nation that arguments against slavery had to be dismissed in order to keep these outstanding individuals involved in the process of nation-building. Others could say that no indi-

vidual or group could be classified as indispensable and that the problem should have been addressed immediately. There is also the possibility that the Founders simply thought that the prohibition of slavery in the Northwest Territory was sufficient to deal with the issue, at least for the time being, while they tackled the daunting task of writing a Constitution.

Edmund Morgan argues that those writing and teaching the history of the United States have had a difficult time in reconciling the development of freedom and democracy on the one hand and the institution of slavery on the other. "Colonial historians, in particular, when writing about the origin and development of American institutions have found it possible until recently to deal with slavery as an exception to everything they had to say. We owe a debt of gratitude to those who have insisted that slavery was something more than an exception, that one-fifth of the American population at the time of the Revolution is too many people to be treated as an exception."

However, Morgan continues with his belief that it is equally incorrect to treat the growth of liberty as an exception. "The rise of liberty and equality in this country was accompanied by the rise of slavery. That two such contradictory developments were taking place simultaneously over a long period of history, from the seventeenth century to the nineteenth, is the central paradox of American history." (Finkelman, pages 261-262)

Bernard Bailyn (p. 235) reflects the same sentiment, "But gradually the contradiction between the proclaimed principles of freedom and the facts of life in America became generally recognized." There was an "obvious discrepancy." Again, Bailyn (p. 236), "It was an unanswerable argument... While everyone believed in liberty and everyone knew that slavery was its denial, everyone knew also, as a South Carolinian wrote in 1774, that the abolition of slavery would 'complete the ruin of many American provinces.'"

Many Southerners were concerned about the precedent set by the English legal battle in the Somerset Case (1772) in which slave James Somerset attempted to leave his owner. Lord Mansfield eventually ruled that slavery "is so odious that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore may follow from the decision, I cannot say this case is allowed or approved by the law of England; and therefore the black must be discharged." This decision led to a fear among slaveowners that their slaves might attempt to flee to England in order to enjoy what appeared to be freedom there. (Blumrosen, p. 11)

Even antislavery stalwart John Adams recognized the need for compromise when he was a delegate to the First Continental Congress in 1774. He was aware of the fact that some moderate delegates were inclined to think of those from Massachusetts as warmongers, given such tumultuous events as the Boston Massacre (see Horton, pages 47 and 48) and the Tea Party. Also to be considered was the reality of British troops stationed in and near Boston. He sensed that any discussion of emancipation would drive a wedge between New England and the South. He said later in his life, "I constantly said in former times to the southern gentlemen, I cannot comprehend this object. I must leave it to you. I will vote for forcing no measure against your judgments." (Blumrosen, p.88)

Speaking of her own feelings regarding the institution, Abigail Adams wrote to her husband in the fall of 1774, "I wish most sincerely there was not a slave in the province."

"It always seemed a most iniquitous scheme to me to fight ourselves for what we are daily robbing and plundering from those who have as good a right to freedom as we have." (Horton, p. 53)

Slave owners would also have been concerned with the attempt in 1773 of a group of slaves in Massachusetts to petition the governor and general court for relief. "We have no property! We have no wives! No Children! We have no City! No Country!" (Horton, pages 50 and 51)

The following year, on May 25, 1774, slaves in Massachusetts petitioned the Governor, Council, and House of Representatives. "The Petition of a Grate Number of Blackes of this Province who by divine permission are held in a state of Slavery within the bowels of a free and Christian Country Humbly Shewing that your Petitioners apprehend we have in coming with all other men a natural right to our freedoms without Being depriv'd of them by our fellow men as we are a freeborn Pepl and have never forfeited this Blessing by any compact or agreement whatever. But we were unjustly dragged by the cruel hand of power from our dearest frinds.... Brought hither to be made slaves for Life in a Christian land.... By our deplorable situation we are rendered incapable of showing our obedience to Almighty God." (Horton, p. 52)

Virginians had additional concerns when British magistrate Lord Dunmore in 1775 promised freedom to slaves who would join him in fighting the state's militia. "...And I do hereby further declare all indented servants, Negroes, or others free that are able and willing to bear arms, they joining His Majesty's troops as soon as may be, for the more speedily reducing this colony to a proper sense of their duty to His Majesty's crown and dignity." (Blumrosen, p. 122)

When the content of the Declaration of Independence was being debated, much time and effort were given in deciding whether or not men were "born equal" or "created equal". While this might seem a minor case of semantics today, slavery was based upon the inheritance of that state of servitude through one's mother. If she could be identified as a slave, then all of her children would be similarly labeled. To be "created equal", however, implied some sort of natural right or law invested in each human being.

The Virginia Declaration of Rights, issued earlier in 1776, appeared to negate this appeal to natural law when it stated, "That all men are by nature equally free and independent, and have certain inherent rights, of which, **when they enter into a state of society**, they cannot by any compact deprive or divest their posterity." It was argued that entering into a "state of society" implies some sort of voluntary effort, which would cancel the concept of natural rights.

A similar decision was made in deciding to omit the frequently mentioned "life, liberty and property" and substituting, instead, "the pursuit of happiness" as a more general term which could not be construed as a comment on the sanctity of slavery. When

interviewed for this article regarding the terms in question, scholar/author Herman Belz stated, "It is not certain whether or not John Locke actually wrote a sentence in which the specific phrase "life, liberty and property" was used, but he surely wrote with great insight and understanding of these three concepts, and he affirmed their relationship. The pursuit of happiness should not be taken as simply a convenient substitute for property. It should be expanded to encompass the classical and cardinal virtues of justice, temperance, courage, and prudence."

There was even in the First Draft of the Declaration, in the section dealing with abuses by the King, a statement that blamed George III for slavery in the colonies because of his support for the slave trade. While this statement was not included in the final document, it is important to note that colonists were searching for a scapegoat. Here again, Edmund Morgan (Finkelman p. 263) comments, "Put the challenge another way; how did England, a country priding itself on the liberty of its citizens, produce colonies where most of the inhabitants enjoyed still greater liberty, greater opportunities, greater control over their own lives than most men in the mother country, while the remainder, one fifth of the total, were deprived of virtually all liberty, all opportunities, all control over their own lives?"

Given the fact that 1/3 of the signers of the Declaration owned slaves, one can understand the task facing the convocation. Donald Wright (p.117-126) writes that the question eventually became one of racism, not just slavery. Furthermore, the author gives several other reasons for the failure to deal with the issue: (1) the belief that emancipation would create an economic disaster; (2) the above-mentioned racist belief that slaves were inherently inferior; (3) Scriptural approbation of the institution; (4) the rights of property ownership; and (5) the inferred belief that all attention should be given to the upcoming conflict with England, which would require total concentration on that one issue. Another focus of contention was the concern of Southern colonists for the potential ramifications of allowing Blacks to be armed in the impending war against Great Britain. Wright quotes (p. 126) James Madison, "If America and Britain should come to a hostile rupture I am afraid an Insurrection among the slaves may and will be promoted. In one of our Counties lately a few of those unhappy wretches met together and chose a leader who was to conduct them when the English troops should arrive."

Even in the debate in late July 1776 over how voting should take place and how funding for the national cause should be allocated (e.g. one vote per colony or voting by population), Chase (Maryland) "moved that the quotas should be fixed, not by the number of inhabitants of every condition, but by that of white inhabitants... There is no more reason therefore for taxing the southern states on the farmers head, and on his slaves head, than the northern ones on the farmers heads and the heads of their cattle." Lynch (South Carolina) used the same argument, "Our slaves being our property, why should they be taxed more than the land, sheep, cattle, horses, etc." (Blumrosen, pages 134-135)

One argument constantly used by slave owners was that the "poor creatures", if freed, would be unable to survive. Landon Carter wrote two days after the Declaration of Independence, "If you free

the slaves, you must send them out of the country or they must steal for their support." (Finkelman, page 269) While it was possible for slaves eventually to assume positions in society, there would be much "tutelage" required beforehand. According to John Locke (Blackburn, p. 263), there was great danger "to turn loose to an unrestrain'd Liberty, before he has Reason to guide him."

There was even "scientific proof" quoted to this effect when Linnaeus stated in the 10th edition of his *Systema Naturae* (1758-59) that there were different physical and cultural levels of homo sapiens with Whites (gentle, acute, and inventive) being well above Blacks (crafty, indolent, and negligent). (Wright 144-45)

People generally do not easily accept the relinquishment of things which they believe have made their lives better or have given them an advantage over others. We don't want to abandon those practices or possessions which serve our needs and wants. And to Southerners, slavery was a practice and slaves were possessions which must be protected in order to maintain the way of life to which they had become accustomed.

Gordon Wood (p. 186) admits that the failure to deal with slavery makes the Founders seem "inconsistent and hypocritical" when we judge their accomplishments. "Yet it is important to realize that the Revolution suddenly and effectively ended the cultural climate that had allowed black slavery, as well as other forms of bondage and unfreedom, to exist throughout the colonial period without serious challenge."

Slavery was introduced to the Western Hemisphere shortly after discovery of the two continents and related islands. Robin Blackburn (page 3) estimates that 12,000,000 captives were taken from the African coast between 1500 and 1870 and that over 1,500,000 died en route to the New World. Many also died prior to being assigned to ships, and somewhere "between a tenth and a fifth died within a year" of landing in the Western Hemisphere. Many of the slaves were first captured in Africa by those of their own race. "The twentieth-century Western mind is frozen by the horror of men selling and buying others as slaves and even more stunned at the irony of black men serving as agents for the enslavement of blacks by whites.... The racial wrong was lost on African merchants who saw themselves as selling people other than their own. The distinctions of tribe were more real to them than race." (Nathan Huggins quoted in Blackburn, page 1)

The first Blacks arrived in Jamestown in 1619, but Warren Billings argues that at first their status was uncertain, especially given the question as to whether or not conversion to Christianity affected White attitudes by changing descriptions from slave to servant. (Billings quoted in Finkelman, Vol 3, pages 1-8) Eventually the question of baptism was no longer considered to be a special consideration in determining status. As stated in An Act Concerning Servants and Slaves, Virginia 1705 (Blackburn, p. 307), "All servants imported and brought into this country, by sea or land, who were not Christians in their native country... shall be accounted and be slaves, and as such bought and sold notwithstanding a conversion to Christianity afterwards." According to The 1669 Fundamental Constitutions of the Carolinas, "Every Freeman of Carolina shall have absolute power and authority over Negro

slaves of whatever opinion of Religion soever." (Blackburn, p. 258)

Other regulations strictly regulated what Locke referred to as "...the state of war continued between a lawful Conqueror, and a Captive." Virginia's Act (of 1691) for Suppressing of Outlying Slaves" left little doubt as to consequences of runaways, since "Many times negroes, mulattoes and other slaves unlawfully absent themselves from their masters or mistresses services, and lie hid and lurk in obscure places, killing hoggs [sic] and encouraging other injuries to the inhabitants of this dominion, it was lawful for the latter to kill and destroy such negroes, mulattoes and other slaves." In addition, the same Act addressed the issue of miscegenation..." for the prevention of that abominable mixture and spurious issue which hereafter may encrease [sic] in this dominion, as well as negroes, mulattoes and Indians intermarrying with English, or other white women, as by their unlawful accompanying with one another, be it enacted... that for the time to come, whatsoever English or other white man or woman being free shall intermarry with a negroe [sic], mulatto or Indian man or woman, bond or free, shall within three months of such marriage be banished and removed from this dominion for ever." (Blackburn, p. 264)

Alexander Hamilton invited scorn from Southerners when, in late 1776, he proposed that slaves from South Carolina should be enrolled in the army. "An essential part of the plan is to give them their freedom with their muskets. This will secure their fidelity, animate their courage, and I believe will have a good influence upon those who remain, by opening a door to their emancipation." (Elkins, p. 99)

Like many Virginians, Patrick Henry appears to have had conflicting views. He believed that "the general inconvenience of living here without them" was a major factor in Southern attitudes. However, there was a contradiction, "at a time when the rights of humanity are defined and understood with precision in a country above all others fond of liberty." He hoped that in the future "an opportunity will be offered to abolish this lamentable evil." (Bailyn, p. 236)

James Otis of Massachusetts was more outspoken, particularly on the theme of physical differences, when he said in 1764, "Does it follow that 'tis right to enslave a man because he is black? Will short curled hair like wool instead of Christian hair help the argument? Can any logical inference in favor of slavery be drawn from a flat nose, a long or short face? Nothing better can be said in favor of a trade that is the most shocking violation of the law of nature, has a direct tendency to diminish the idea of the inestimable value of liberty, and makes every dealer in it a tyrant." (Bailyn, page 237)

Benjamin Rush joined the fray in 1773 with the admonition that, "The plant of liberty is of so tender a nature that it cannot thrive long in the neighborhood of slavery." He also cautioned colonists regarding their perception in the world at large, "Remember, the eyes of all Europe are fixed upon you, to preserve an asylum for freedom in this country after the last pillars of it are fallen in every other quarter of the globe." (Bailyn p. 239) However, "the eyes of all Europe" frequently looked upon a grim paradox. According to Samuel Johnson in London, "How is it that we hear the loudest yelps for liberty from the drivers of Negroes?" (McCullough, p. 133)

Once the War was over, the Founders were soon consumed with the need to rectify the obvious shortcomings of the Articles of Confederation, and a Convention was called to fix the problem. It is well known that there were divergent opinions over what would come to serve as a Constitutional Convention. Some thought that the purpose was merely to revise the Articles, and that no additional authority could be assumed. Others believed that it would be necessary to create an entirely new document and, with it, a new vision for the nation.

Edmund Morgan (*Genuine Article*, p. 135) asks the defining question, "Is the Constitution of 1787 the embodiment of the Revolution, or a reaction against it?"

When the delegates assembled in 1787, slavery was once again a major topic of discussion. Luther Martin (Maryland) stated his belief that the importation of slaves "was inconsistent with the principles of the Revolution and dishonorable to the American people." John Rutledge (South Carolina) countered, "Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is whether the Southern states shall or shall not be parties to the Union." Rutledge continues with the point that Northerners had an economic interest in the practice, especially in the matter of the growing shipping industry. "If the Northern states consult their interest, they will not oppose the increase of slaves, which will increase the commodities of which they will become the carriers. (Wiencek, p. 266)

Northerner Oliver Ellsworth (CT) showed a flexible nature when he stated, "Let every state import what it pleases... What enriches a part enriches the whole." Charles Cotesworth Pinckney (SC) simply said, "South Carolina and Georgia cannot do without slaves." Rutledge picked up the challenge, "If the Convention thinks that North Carolina, South Carolina, and Georgia will ever agree to the plan unless their right to import slaves be untouched, the expectation is in vain. The people of those states will never be such fools, as to give up so important an interest." (Wiencek, p. 267)

The confrontation was finally resolved with a compromise which allowed for a twenty year window before the slave trade would be abolished. In addition, the determination that each slave would count as 3/5 of a person in determining the population of each state, and the clause which gave support to the concept of a Fugitive Slave Law were included in the final document. Garry Wills (p. 6) demonstrates the actual effect of this 3/5 provision: "In the sixty-two years between Washington's election and the Compromise of 1850, for example, slaveholders controlled the presidency for fifty years, the Speaker's chair for forty-one years, and the chairmanship of the House Ways and Means for forty-two years. The only men to be re-elected president (Washington, Jefferson, Madison, Monroe, and Jackson) were all slaveholders. The men who sat in the Speaker's chair the longest — Henry Clay, Andrew Stevenson, and Nathaniel Macon — were slaveholders. Eighteen out of thirty-one Supreme Court justices were slaveholders."

In commenting on the compromise, Henry Wiencek explains, "They handed the problem to the future. Interestingly, those with

the least direct experience of slavery were the ones who clung to the hope, or illusion, that the institution was waning. The Southerners knew they would never give it up." Virginian George Mason expressed the belief that it was unrealistic to think that the practice would die a quiet death, confined to the areas where it presently existed. "The Western people are already calling out for slaves for their new lands, and will fill that country with slaves, if they can be got through South Carolina and Georgia." Continuing, Mason thundered, "Slavery discourages arts and manufactures... They prevent the immigration of white, who really enrich and strengthen a country. **Every master of slaves is born a petty tyrant.**" (August 22, 1787) Slavery itself will "bring the judgment of Heaven on a country. If nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities." (Wiencek, pages 268 and 269)

James Madison's statements and actions showed some ambivalence on the subject. "He was a relatively humane master for the nearly 120 slaves that he inherited, once instructing an overseer to 'treat the Negroes with all the humanity and kindness consistent with their necessary subordination and work.' Madison never tried to defend the morality of slavery, the 'most oppressive dominion ever exercised by man over man'... but neither did he distinguish himself in trying to eliminate it." (Chernow, p. 213)

While Madison and Hamilton had a common purpose, especially as evidenced by their collaboration in *The Federalist Papers*, to promote the ratification of the Constitution, there is no doubt that they had differing views on the subject of slavery. In an action by the British regarding the status of slaves who had escaped behind British lines, Hamilton had refused to recognize the claims that those slaves should be returned to their masters. "In the interpretation of treaties, things odious or immoral are not to be presumed. The abandonment of negroes, who had been induced to quit their masters on the faith of official proclamations, promising them liberty, to fall again under the yoke of their masters and into slavery is as odious and immoral a thing as can be conceived." When speaking of Hamilton in this instance, Chernow states (p. 213), "This fierce defender of private property... this man for whom contracts were to be sacred covenants... expressly denied the sanctity of any agreement that stripped people of their freedom."

In February 1790 two Quaker petitions were presented to Congress. One called for an immediate cessation of the slave trade, and the other advocated a gradual abolition of slavery itself. "The petitions would almost surely have been consigned to legislative oblivion except for the signature of Benjamin Franklin on the second, which transformed a beyond-the-pale protest into an unavoidable challenge to debate the moral compatibility of slavery with America's avowed revolutionary principles. In what turned out to be his last public act, Franklin was investing his great prestige to force the first public discussion of the sectional differences over slavery at the national level. If only in retrospect, the debates in the House during the spring of 1790 represented the final opportunity on the part of the revolutionary generation to place slavery on the road to ultimate extinction." (Ellis, p. 201)

Franklin, in this final act, remained true to his lifelong opposition

to slavery. While he was disappointed that the Constitution did not go as far as he might have wished, he said in the frequently quoted statement, "When you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views." In the end, he said, "Thus I consent, sir, to this constitution, because I expect no better, and because I am not sure that it is not the best." (Brands, p. 690)

Warner Mifflin, relying on Franklin's reputation, urged President Washington to speak out in favor of these Quaker petitions. "And since he was the only American with more prestige than Franklin, Washington's intervention at this propitious moment could make the decisive difference in removing this stain on the revolutionary legacy, as well as his own." (Ellis, p. 201) Washington avoided the issue by stating that this was a matter for the legislative branch, not the executive, and "it might come before me for official decision." But to friends in Virginia he left no doubt when he wrote, "The introduction of the Quaker Memorial, rejecting slavery, was to be sure not only an ill-judged piece of business, but occasioned a great waste of time." (Ellis, p. 202) Ellis comments on the episode, "What strikes us as a poignant failure of moral leadership appeared to Washington as a prudent exercise in political judgment. There is no evidence that he struggled over the decision. Whatever his personal views on slavery may have been, his highest public priority was the creation of a unified American nation." (Ellis, p. 202)

The opposition to slavery of John and Abigail Adams is well documented. Both appear to have been passionate about the subject. In a letter before the Revolution, Abigail questioned whether the commitment to liberty could be "equally strong in the breasts of those who have been accustomed to deprive their fellow creatures of theirs." (McCulloch, p. 134) In spite of their concerns, John seems to have been eerily prescient when he wrote in 1819, "I know it is high treason to express a doubt of the perpetual duration of our vast American empire." However, he opined that the struggle over slavery "might rend this mighty fabric in twain." One can only postulate how proud John and Abigail would have been as their son John Quincy picked up the torch and fought slavery tooth and nail for many years in Congress after his presidency.

We must finally come to Thomas Jefferson and his seemingly conflicted thoughts. First we can read his statement, "The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other... Indeed, I tremble for my country when I reflect that God is just: that his justice cannot sleep forever." (McCullough, p. 331) Then we can document his lifelong ownership of slaves and his dependence upon them to keep his estates running in the orderly manner which he demanded.

John Quincy Adams bluntly said of Jefferson, he "'had not the spirit of martyrdom'. He was commenting upon his refusal to persist in action against slavery after early rebuffs, though 'he saw the gross inconsistency between the principles of the Declaration of Independence and the fact of Negro slavery... which from his soul he abhorred.'" (Kennedy, p. 19) "The tragic flaw central to this

drama was Jefferson's timidity in risking affront to those whose approval he craved." (Kennedy, p. 241)

Near the end of his life, Jefferson wrote the following commentary which resounds through the years: "I regret that I am now to die in the belief that the **useless sacrifice of themselves by the generation of 1776**, to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be, that I live not to weep over it." (Kennedy, p. 241)

Conclusion

If "nature abhors a vacuum," surely history must abhor Monday Morning Quarterbacks. Looking back, we know the tragic loss of life and devastation caused by the Civil War. It is far too cynical to argue that the Founders should have anticipated this specific crisis and should, therefore, have risked the cohesion required to stand against England. It is cynical, too, to assume that they should have in 1776 and 1787 foreseen the Louisiana Purchase, bringing with it the opportunity to expand slavery beyond the Mississippi, just 15 years after Washington won his first term as President.

My favorite stanza of "America the Beautiful" (Katharine Lee Bates, original version 1893) is "Oh Beautiful for patriot dream that sees beyond the years." When all else is said and done, our

Founders did an exemplary job of seeing beyond the years. The Declaration of Independence rings with a clarion call for liberty, and its words still resonate. The Constitution has stood the test of time, trial, and tribulation. It is one of the most remarkable documents ever devised. Americans can be justly proud of our forefathers and the efforts required in creating this magnificent nation. In the history of the world, it is quite possible that they represented the most brilliant and dedicated group ever convened for a specific purpose.

And yet, there will always be an "and yet" because of the one great failure to "see beyond the years" and deal with the fatal flaw in the national character. I believe that our Founders acted for what **they considered to be the greater good**, a nation which had to be united, first of all to face a common foe and then to create a lasting Constitution. They got so many things absolutely right... separation of power with three distinct branches; large state/small state representation; and the Bill of Rights which followed almost immediately. Amendments have been few and far between, considering the length of time that the Constitution has been in force. Perhaps John Quincy Adams was correct in saying that this momentous question could only be solved "at the cannon's mouth." And yet....

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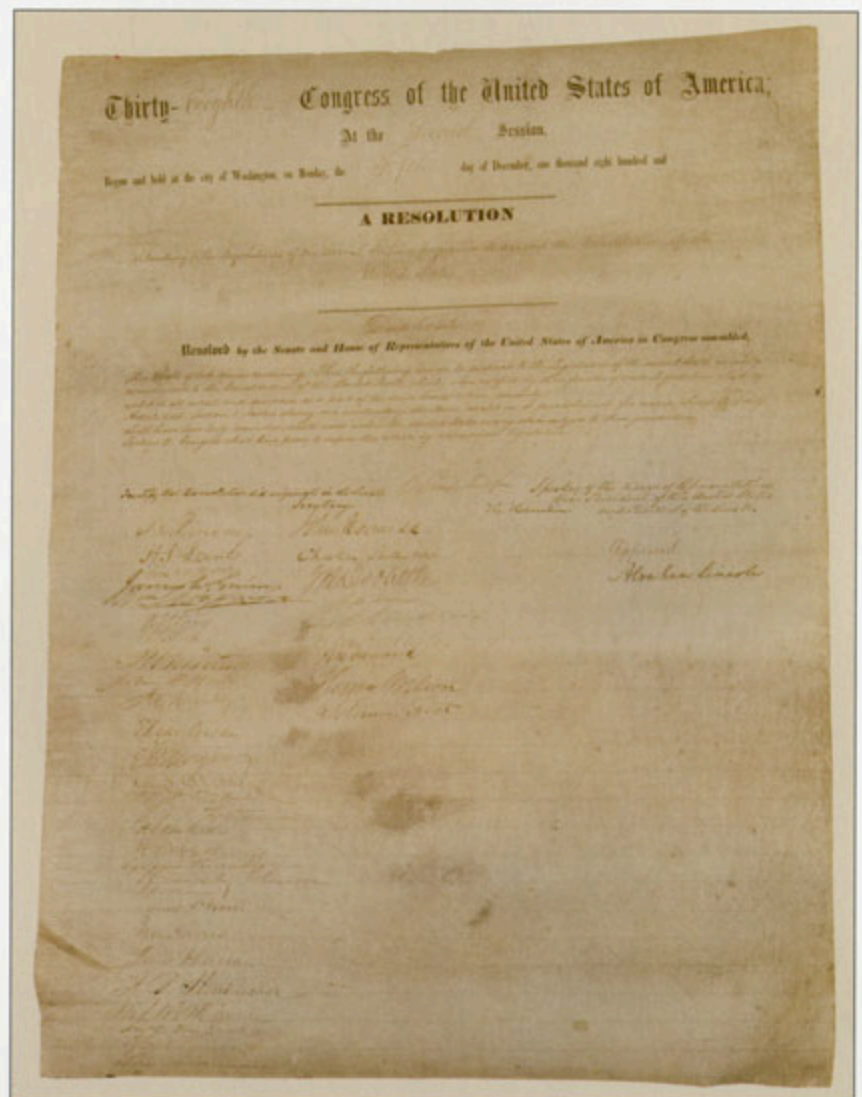
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