**“Founding Fathers and Slavery”**

**William W. Freehling**

ONLY A FEW YEARS AGO, in a historical age now grown old as Thomas Jefferson himself, no man needed to defend the Founding Fathers on slavery. However serious were their sins and however greedy seemed their pursuits, the men who made the American Revolution were deemed to have placed black slavery at bay. Patriots such as George Washington, historians used to point out, freed their slaves, and only if Eli Whitney hadn’t invented the cotton gin, slavery would have died out.

This happy tale, once so important and so widely believed, now lies withered by a decade of attack. Scholars such as Robert McColley, Staughton Lynd, William Cohen, and Winthrop Jordan have assaulted every aspect of the old interpretation. Some are driven by a New Leftist repugnance for anyone contaminated by racism. Whatever their reasons and however qualified their individual positions, these scholars, taken together, have hammered out a new image of the Founding Fathers. The image is not attractive.

The Declaration of Independence, it is now argued, was a white man's document that its author rarely applied to his or to any slaves. The Constitution created aristocratic privilege while consolidating black bondage. Virginia shrank from abolition, for slave prices were too high and race fears too great. Jefferson himself suspected blacks were innately inferior. He bought and sold slaves; he advertised for fugitives; he ordered lashes well laid on. He lived in the grand manner, burying prayers for freedom under an avalanche of debt. In all these evasions and missed opportunities Jefferson spoke for his age. For whatever the virtues of the Founding Fathers, concludes the new view, they hardly put slavery on the road to ultimate extinction. It seems fitting, then, that when Southerners turned their backs on the Declaration and swung toward reaction in the wake of the Missouri crisis, the sage of Monticello himself helped point the way.

The trouble with this new condemnatory view is not so much that it is a one-sided judgment of the Founding Fathers as that it distorts the process by which American slavery was abolished. The new charge that the Founding Fathers did next to nothing about bondage is as misleading as the older notion that they almost did everything. The abolitionist process proceeded slowly but inexorably from 1776 to 1860 slowly in part because of what Jefferson and his contemporaries did not do, inexorably in part because of what they did. The impact of the Founding Fathers on slavery, like the extent to which the American Revolution was revolutionary, must be seen in the long run not in terms of what changed in the late eighteenth century but in terms of how the Revolutionary experience changed the whole of American antebellum history.

IF MEN WERE EVALUATED in terms of dreams rather than deeds everyone would concede the antislavery credentials of the Founding Fathers. No American Revolutionary could square the principles of the Declaration with the perpetuation of human bondage. Only a few men of 1776 considered the evil of slavery permanently necessary. None dared proclaim the evil a good. Most looked forward to the day when the curse could be forever erased from the land. “The love of justice and the love of country," Jefferson wrote Edward Coles in 1814, “plead equally the cause of these people, and it is a moral reproach to us that they should have pleaded it so long in vain."

If the Founding Fathers unquestionably dreamed of universal American freedom, their ideological posture was weighed down equally unquestionably with conceptions of priorities, profits, and prejudices that would long make the dream utopian. The master passion of the age was not with extending liberty to blacks but with erecting republics for whites. Creative energies poured into designing a political City on the Hill: and the blueprints for utopia came to be the federal Constitution and American union. When the slavery issue threatened the Philadelphia Constitutional Convention the Deep South's ultimatums were quickly met. When the Missouri crisis threatened the Union Jefferson and fellow spirits beat a retreat. This pattern of valuing the Union more than abolition-of marrying the meaning of America to the continuation of a particular government-would persist, producing endless compromises and finally inspiring Lincoln's war.

The Founding Fathers had an anti-slavery dream. They felt sure that one day the slave institution would disappear. They moved slowly in this direction because of their respect for property, an idea they held tight from John Locke and their belief that black slaves were racially inferior. Here again Jefferson typified the age. As Winthrop Jordan has shown, Jefferson suspected that blacks had greater sexual appetites and lower intellectual faculties than did whites. As Merrill Peterson points out, Jefferson also suspected blacks were inferior rather than suspecting blacks were equal. These suspicions made Jefferson believe that blacks and whites could not live harmoniously in America, and so he favored a plan where black would return to African colonization. The alternative appeared to be race riot and sexual chaos.

Jefferson and the men of the Revolution, however, continually dreamed of leaping ahead when the time was ripe. In 1814, while lamenting his own failure, Jefferson urged others to take up the crusade. "I had always hoped," he wrote Edward Coles--that the younger generation receiving their early impressions after the flame of liberty had been kindled in every breast ... would have sympathized with oppression wherever found, and proved their love of liberty beyond their own share of it." As late as 1824, five years after his retreat in the Missouri crisis, Jefferson suggested a federally financed abolition scheme that would have ended slavery faster than the plan proposed by his grandson, Thomas Jefferson Randolph, in the famed Virginia slavery debate of 1832.

The ideological stance of Jefferson and other Founding Fathers on slavery, then, was profoundly ambivalent. On the one hand they were restrained by their overriding interest in creating the Union, by their concern for property rights, and by their visions of race war and miscegenation. On the other hand they embraced a revolutionary ideology that made emancipation inescapable. The question is, how was this theoretical ambivalence resolved in practical action?

The answer, not surprisingly, is also ambivalent. Whenever dangers to Union, property, or racial order seemed to them acute the Founding Fathers did little. In the short run, especially in those Deep Southern states where the going was stickiest, they did almost nothing. But whenever abolition dangers seemed to them manageable Jefferson and his contemporaries moved effectively, circumscribing and crippling the institution and thereby gutting, its long-range capacity to endure.

What could be done? What Jefferson and his contemporaries did was to attack slavery where it was weakest, thereby driving the institution south and reducing its capacity to survive. In a variety of ways the Founding Fathers took positive steps that demonstrated their antislavery instincts and that, taken together, drastically reduced the slavocracy's potential area, population, and capacity to endure.

The first key reform took place in the North. When the American Revolution began slavery was a national institution, thriving both north and south of the Mason-Dixon line. Slaves comprised 14 per cent of the New York population, with other figures ranging from 8 per cent in New jersey to 6 per cent in Rhode Island and 3 per cent in Connecticut and Pennsylvania. In these states. unlike Virginia, percentages of slaves were low enough to permit significant reform.

Still, prior to 1776. abolitionists such as John Woolman found the North barren soil for antislavery ideas. As John Jay recalled, “the great majority of Northerners accepted slavery as a matter of course, and very few among them even doubted the propriety and rectitude of it." The movement of 1776 changed all this. The humanitarian zeal of the Revolutionary era, together with non-slaveholder hatred of slave competition and universal acknowledgment that the economy did not need slavery, doomed Northern slavery to extinction. In some states the doom was long delayed as Northern slaveholders fought to keep their bondsmen. Slavery was not altogether ended in New York until 1827 and in New jersey until well into the 1840s. By 1830, however, less than one per cent of the 125,000 Northern blacks were slaves. Bondage had been made a peculiar institution, retained alone in the Southern states.

No less important than abolition in old Northern states was the long and bitter fight to keep bondage from expanding. In the famed Northwest Ordinance of 1787, for example, Congress decreed slavery illegal immediately in the upper Western territories. The new law left bondage free to invade the Southwest. But without the Northwest Ordinance slavery might have crept into Illinois and Indiana as well, for even with it bondage found much support in the Midwest.

More important than preventing the spread of slavery into the North West Ordinance was the abolition of the African trade. This accomplishment, too often dismissed as a non-accomplishment, shows more clearly than anything else the impact on anti-slavery of the Revolutionary generation. Furthermore, nowhere else does one see so clearly that Thomas Jefferson helped cripple the Southern slave establishment.

The drive to abolish the African slave trade began with the drafting of the Declaration of Independence. Jefferson, with the concurrence of Virginia and the upper South, sought to condemn King George for foisting Africans on his colonies. South Carolina and Georgia, less sure they had enough slaves, demanded the clause be killed. Jefferson acquiesced. Thus was prefigured, at the first moment of national history, the split between upper and lower South that less than a century later would contribute mightily to the disruption of the republic.

At the Constitutional Convention, as we have seen, lower South delegates again postponed a national decision on slave importations. This time a compromise was secured, allowing but not requiring Congress to abolish the trade after twenty years. A year before the deadline Jefferson, now presiding at the White House, urged Congress to seize its opportunity. “I congratulate you, fellow citizens," he wrote in his annual message of December 2, 1806, " on the approach of the period when you may interpose Your authority constitutionally” to stop Americans "from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country have long been eager to proscribe." Although the law could not take effect until January 1, 1808 noted Jefferson, the reform, if passed in 1807, 1807, could make certain that no extra African was dragged legally across the seas. In 1807 Congress enacted Jefferson's proposal.

The new law, although one of the most important acts an American Congress ever passed, did not altogether end African importations. Americans illegally imported approximately one thousand blacks annually until 1860. This is, however, a tiny fraction of the number that could have been imported if the trade had been legal and considered legitimate. Brazil imported over a million and a half slaves from 1807 to 1860, and the Deep South's potential to absorb bondsmen was greater. South Carolina alone imported ten thousand blacks a year in the early nineteenth century, before the law of 1808 went into effect. Clearly, the Revolutionary generation's conception of slavery as a moral disaster was of undeniable significance. The law that closed the trade and saved millions of Africans from servitude on new Southwestern plantations also aided slaves already on those plantations. It made slaves already in the South more expensive, and thus they received better treatment from plantation owners than slaves imported annually into Brazil.

Perhaps the most important long-run impact of closing the trade was to help push bondage deeper into the South, thereby continuing the work the Fathers had begun with Northern abolition and the Northwest Ordinance. Now that African markets were closed the new Southwest had to procure its slaves from Northern slave states. By 1860 the resulting slave drain had significantly reduced percentage of slaves and commitments to slavery throughout the border area stretching from Delaware through Maryland and Kentucky into Missouri.

While the end of the slave trade indirectly drained slaves from the border South another Revolutionary legacy, the tradition of individual manumission, further weakened the institution in the Northern slave states. Although Jefferson did not live up to his dictum that antislavery planters should free their slaves many upper South masters followed precept rather than example in the antebellum years. The Virginia law of 1806, forcing freed slaves to leave the state in a year, did not halt the process as absolutely as some have supposed. Virginia laws passed in 1819 and 1837 allowed county courts to grant exceptions. The ensuing trickle of manumissions was a festering sore to the Virginia slave establishment.

Meanwhile, in two border states, manumission sabotaged the institution

more insistently. Delaware. which had slaves and 4,000 free blacks in 1790, had 1, 800 slaves and 20,000 free blacks in 1860. Maryland with 103,000 slaves and 8,000 free blacks in 1790, had 87,000 slaves and 84,000 free blacks in 1860. These two so-called slave states came close to being free Negro states on the eve of Lincoln's election. Indeed, the Maryland manumission rate compares favorably with those of Brazil and Cuba, countries that supposedly a monopoly on Western Hemispheric voluntary emancipation.

The manumission tradition was slowly but relentlessly changing the character of states such as Maryland in large part because of a final Jeffersonian legacy: the belief that slavery was an evil that must some day be ended. Particularly In the upper South this argument remained alive. It informed the works of so-called proslavery propagandists, and it gnawed at the consciences of thousands of slaveholders as they made up their wills. Jefferson's condemnation of slavery had thrown the South forever on the defensive.

In summary, then, the Revolutionary generation found slavery a national institution, with the slave trade open and Northern abolitionists almost unheard. When Jefferson and his contemporaries left the national stage they willed to posterity a crippled, restricted, peculiar institution. Attacking slavery' successfully where it was weakest they swept it out of the North and kept it away from the Northwest. They left the antebellum South unable to secure more slaves when immigrants rushed to the North. Most important of all, their law closing the slave trade and their tradition concerning individual manumissions constituted a doubly sharp weapon superbly calculated to continue pushing slavery south. By 1860 Delaware, Maryland, Missouri, and the area to become West Virginia all had fewer staves than New York possessed at the time of the Revolution, and Kentucky did not have many more. The goal of abolition had become almost as practicable in these border states as it had been in the North in 1776.

If the Founding Fathers had done none of this-if slavery had continued in the North and expanded into the Northwest; if millions of Africans had been imported to strengthen slavery in the Deep South, to consolidate it in New York and Illinois, to spread it to Kansas, and to keep it in the border South; if no free black population had developed in Delaware and Maryland, no apology for slavery had left Southerners on shaky moral grounds; if, in short, Jefferson and his contemporaries had lifted nary a finger would have been different. Because all of this was done slavery was more and more confined in the Deep South as the nineteenth century progressed.

**Slavery in the American Constitutional**

**Daniel Robinson**

In the drama that produced the Constitution, Southern delegates were unmistakably prominent players. James Madison, the man whose leadership during the Convention earned him the title "Father of the Constitution," was a Southerner, a slaveowning Virginian. John Rutledge, certainly a leading nationalist and chairman of the important Committee of Detail, which provided the first definition of legislative powers under the Constitution, was one of the wealthiest and best established planters at the Convention, and deliberately represented the most candid slave owners, the rice planters of South Carolina's coastal flats. George Washington, whose presence contributed essential authority to the deliberations and who had always been a force for national prestige and integration, was an exceedingly rich man, whose fortune arose largely from the labor of slaves in and around Mount Vernon, Virginia. In fact, of the fifteen most influential delegates seven were planters.

When the Convention turned to the definition of powers for the federal government, Southerners easily and naturally assumed a leading role, not just to be in a strategic position to defend "peculiar" interests, but also to perform as energetic architects of a governmental structure appropriate to a great nation.

The South's enthusiastic participation in the nationalizing thrust of 1787 carried one portentous qualification: the national government could be as powerful as the vision of a great national empire demanded, provided that it keep its hands off slavery. The major premise of the Southern position was a desire for vigorous national government, but the crucial minor premise was that slavery was strictly a local matter, forever beyond the reach of national authority. No conclusion-no constitutional clause, no public policy or pronouncement-that failed to take this minor premise fully into account could ever be acceptable to the South.

The South's insistence on this point sprang from several sources. One was a sense of complete dependence on slavery. This dependence was acknowledged by Southerners many times during the Convention's proceedings, though perhaps never more candidly than when General Pinckney flatly stated that "South Carolina and Georgia cannot do without slaves." "The blacks are the laborers, the peasants of the Southern states," added his cousin, and fellow planter, Charles. In the South Carolinians' view, the Southern economy was totally dependent on the productivity of black laborers.

Southerners were convinced that slavery was essential to the peace of their social environment, and they suspected that those who lived where blacks were sparse could never understand this fact. Their suspicion must have been fed by such remarks as the following, made by delegates from Connecticut: "the abolition of slavery seemed to be going on in the United States and . . . the good sense of the several states would probably by degrees complete it," and "As population increases, poor laborers will be so plenty [sic] as to render slaves useless. Slavery in time will not be a speck in our country." These statements are sometimes taken as evidence that the framers looked forward confidently to the time when slavery would dissolve from the American social scene, and are thus seen as partial justification for the failure of the Convention to come to grips with the institution directly in 1787. But in the face of the candor of the South Carolinians, a better interpretation of their significance would seem to be that they reinforced the determination of Southerners not to allow people so ignorant of the true situation of the South to obtain power to legislate over slavery at all.

There were, of course, other Southern delegates, particularly the Virginians, whose commitment to slavery was less enthusiastic. George Mason, for one, was deeply troubled by it. Author of Virginia's seminal Bill of Rights, which began with the assertion that "all men are naturally equal," he called the attention of the delegates to the tendency of slavery to weaken the nation's defenses against foreign foes, to corrupt the manners of masters, to discourage the migration into the South of free white laborers, and to stimulate avarice in "some of our Eastern brethren" who participated in the slave trade. Yet, despite these painful expressions of ambivalence toward slavery, there is no evidence that any Southerner departed from the determination to deprive the federal government of power to emancipate slaves.

Despite this absolute intransigence on the subject of power to abolish or regulate slavery, there was one related aspect of the question on which the mind of the South was divided: “the power of the national government to control the slave trade.” On this point, the South Carolinians were as adamant as on any other affecting slavery. Charles Pinckney stated, "In every proposed extension of the powers of the Congress, [South Carolina] has expressly and watchfully excepted that of meddling with the importation of negroes." Here, though, the South Carolinians were unable to make their position stick, partly because the Marylanders and Virginians, overstocked with slaves already and restricting the slave trade would increase the value of their property when they sold slaves further South.

The Convention's earliest consideration of the question of powers for the new government came in response to the resolution of the Virginia Plan.

The cornerstone of the Southern position was that slavery must be treated as a local institution beyond the power of Congress to regulate. On the slave trade, the mind of the South was divided. The Deep Southerners wanted it exempted altogether from federal regulation; men from the upper South wanted it stopped as soon as possible. In the area of foreign commerce generally, Southerners insisted that export taxes be prohibited to the federal government, and they sought to require special majorities for the enactment of regulations of maritime commerce.

Because the Southern economy was based on the planting of staples, Southern statesmen were eager to prevent hostile majorities in Congress from taxing exports like tobacco, sugar, rice, and cotton, or even taxing cheap European goods.

Another issue of particular concern to the Southerners was the matter of foreign treaties. During the late stages of the Confederation, Southerners had feared that John Jay, the Secretary for Foreign Affairs, would negotiate a treaty with Spain that would yield American rights to navigate the Mississippi River past New Orleans in exchange for commercial privileges in trading with the Spanish Empire. Such a treaty would have been a boon to maritime interests in New England, but a crippling blow to settlers beyond the Appalachians, particularly those in the Ohio River Valley. Now, at the Constitutional Convention, Southerners were determined that special 2/3 majorities be required for the ratification of treaties, in order to protect themselves in the future.

A Committee was assigned to deal with these issues. It was composed of the most active and influential Southern plantation owners.

The report by this committee was a monument to Southern craft and gall. It provided virtually everything that Southerners, especially Deep Southerners, wanted from the Convention: substantial (three-fifths) representation for their slaves, complete immunity for the slave trade and for slavery in general, prohibition of export taxes, and special majorities for navigation acts and treaties-all this in addition to a government strengthened for defense and for prompt payment of its debts.

Significantly, this Committee of Detail contained a majority of Northerners, but only two of them objected to Southern demands regarding tariffs, slave trade, or 3/5 representation. Robert Morris, for example, spoke out the most strongly. Moving to limit representation to "free inhabitants," he admitted that he meant his motion as an assault on "domestic slavery." Throwing forbearance to the wind, he called slavery the "curse of heaven" on the Southern states. Referring to slaves as "his fellow creatures," he indicted Georgians and Carolinians for tearing them from their "dearest connections" in Africa and damning them to "the most cruel bondages," "in defiance of the most sacred laws of humanity."

This was a stirring speech, delivered by a man who was never delicate with the sensitivities of his Southern brethren. But as the sole expression of abolitionism at the Convention--which it was--it is surely a disappointment. In fact, close inspection of the speech and its context in the debate suggests that his purpose in delivering it was to force Southern concessions on navigation acts. Emancipation seems not to have been his goal.

Next came the issue of the Slave Trade. The committee proposed that no restrictions on the importation of slavery occur for 20 years. Northerners reluctantly agreed after Southerners insisted that slavery was dying out and would be gone soon enough. “No sense in causing trouble over an issue that is not really a significant problem,” they said.

By August 28, much of the work on the constitution was finished, but two of the miscellaneous clauses toward the end of the Constitution came up for review, providing an occasion for the South Carolinians to seek further securities for their peculiar property. First, General Pinckney expressed dissatisfaction with the clause, which guaranteed that "the citizens of each state shall be entitled to all privileges and immunities of the citizens in the several states." Madison's notes are scanty at this point, but the General seems to have wanted a specific guarantee that slaveholders could take their property into "free" territory without jeopardizing their claim to ownership. The vote affirmed the "privileges and immunities" clause without amendment, with South Carolina alone in dissent and Georgia divided.

Second, Butler and Pinckney moved "to require fugitive slaves and servants to be delivered up like criminals. The concept of the "fugitive slave" was introduced into American law during the summer of 1787, first in the Northwest Ordinance, then at the Federal Convention. Its significance would be to give a nationwide sanction to the right to property in slaves. Thus, slavery in one state could not be undermined by conditions or enactments in any other state. If the state of which the owner was a citizen recognized it, as his right to own a slave, there would now be no place in the United States where the slave could escape. Connecticut’s Roger Sherman agreed. He said that he "saw no more propriety in the public seizing and surrendering a slave or servant than a horse." His usual Yankee prudence failed him at this point. It was the free Negro, more than the slave, who would be jeopardized by a fugitive-slave clause. And the difference between free Negroes and horses was that the owners of horses in the North would counteract horse thieves from outside the state, whereas free Negroes might not have anyone interested in preventing them from being dragged into slavery.

It may be harsh to belabor Northern delegates for not foreseeing the abuses to which fugitive-slave acts were later put. Nevertheless, the casual way in which this Fugitive Slave clause in the Constituon-so full of peril to Negroes, both bond and free-was adopted tells volumes about the plight of black men in a nation governed by whites. The United States was a miserable place for Negroes, in part because, while Southerners were zealous to keep Negroes enslaved, Northerners cared only superficially, if at all, about the rights, welfare, and happiness of free Negroes. The careless language of the fugitive-slave clause reveals better-than anything else in the Constitution that the fundamental problem for blacks in the union was that the government was in no way answerable to them, and white Americans in general did not hold them in just regard. Did Northerners even care enough to call South Carolina’s bluff on this issue? It is impossible to say, because the Convention never really thought about it. The most perceptive delegates acknowledged the power of slavery to cleave the union in two, but the Convention as a whole failed to regard this fact as a challenge to their moral and political imagination.

Most of the framers were either unperturbed about slavery or else completely resigned to its presence in America. None saw slavery as a sufficient moral or political evil to justify even a careful analysis of its effects, much less a stand against its continued existence. These men, who had shown themselves capable of the most imaginative political thinking and of the boldest political action on other issues, were willing to acquiesce in slavery for two reasons: because the suffering of Negroes did not sufficiently quicken their sympathies, and because they were unable to imagine a viable alternative. Because of these two defects of imagination, they were able to persuade themselves that the political realities of 1787 prevented them, not only from abolishing slavery outright, but from considering it carefully.